



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

बुधवार 7 दिसम्बर, 2016/16 अग्रहायण, 1938

हिमाचल प्रदेश सरकार

राजस्व विभाग

अधिसूचना

शिमला-2 5, दिसम्बर, 2016

संख्या: राजस्व-डी (एफ)4-8/2016.—राज्यपाल, हिमाचल प्रदेश, हिमाचल प्रदेश भू-अभिलेख नियमावली, 1992 के पैरा 2.5 में निर्धारित प्रावधानों/मानकों में छूट प्रदान करते हुए प्रदेश के समस्त 12 जिलों में विद्यमान क्षेत्रीय कानूनगो वृत्त सम्बन्धित उपायुक्तों द्वारा प्रस्तावित मुख्यालयों सहित 154 नये क्षेत्रीय

कानूनगो वृत्त जिलावार परिशिष्ट "क" एवं "ख" में दिये गये विवरणानुसार जनहित में सृजित/खोलने के सहर्ष आदेश देते हैं ।

आदेश द्वारा,
तरुण श्रीधर,
अतिरिक्त मुख्य सचिव एवं वित्तियुक्त (राजस्व)।

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Shimla, the 30th November, 2016

No: Shram (A) 6-3/2016 (Awards).—In exercise of the powers vested under section 17 (1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the Presiding Officer, Labour Court Shimla on the website of the Department of Labour & Employment Government of Himachal Pradesh:—

Sr.No:	Case No.	Title of the Case	Date of Award
1.	57/2014	Shri Vijay Kumar V/S M/S JST Stesalit Transformers, Jharmajri, Baddi District Solan, H.P.	10
2.	56/2014	Shri Naresh Kumar V/s -do-	10
3.	08/2013	Shri Amar Singh & Ors. V/S The General Manager, Euro Solo Energy System Ltd. Solan.	10
4.	50/2016	Shri Naresh Kumar V/S The Executive Engineer, HPPWD Division Rajgarh District Sirmour, H.P.	10
5.	23/2016	Shri Pritam Singh V/S M/S Indo farm Equipent Ltd. Baddi District Solan, H.P.	10
6.	66/2012	Smt. Shakuntla Devi V/S the General Manager, L.S. Industries, Village Bersan, Nalagarh District Solan, H.P.	10

By order,
Sd/-
Pr. Secretary (Lab. & Emp.).

**IN THE COURT OF SUSHIL KUKREJA, PRESIDING JUDGE, INDUSTRIAL
TRIBUNAL-CUMLABOUR COURT, SHIMLA, (H.P).**

Ref. No. 57 of 2014.

Instituted on.11.8.2014.

Decided on 25.10.2016.

Vijay Kumar S/o Shri Milkhi Ram R/o Village Lower Thana, P.O Jahmat, Tehsil Sarkaghat,
District Mandi, HP. . *Petitioner.*

Vs.

M/s JST Stesalit Transformers HB No. 214, Bhatoli Kalan, Hill Top, Industrial Adre-1,
Jharmajari, Tehsil Baddi, District Solan, HP through its Employer/Managing Director.
. *Respondent.*

Reference under Section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri R.K Khidtta, Advocate.

For respondent : Shri Rahul Mahajan, Advocate.

AWARD

The following reference has been sent by the appropriate government for adjudication:

“Whether termination of the services of Shri Vijay Kumar S/o Shri Milkhi Ram R/o Village Lower Thana, P.O Jahmat, Tehsil Sarkaghat, District Mandi, HP w.e.f. 13.6.2013 by the Managing Director of M/s JST Transformers HB No. 214, Bhatoli Kalan, Hill Top, Industrial Area-1, Jharmajari, Tehsil Baddi, District Solan, HP without complying with the mandatory provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what benefits, including reinstatement, amount of back-wages, salary, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. In nutshell, the case of the petitioner is that he being qualified in welding and electric trade was engaged as welder by the respondent management w.e.f. 1.10.2012 and worked as such till 6.5.2013 continuously and that his services had been terminated by the respondent w.e.f. 7.5.2013 (which has been wrongly mentioned in the demand notice as 13.6.2013) without following the mandatory provisions of the Industrial Disputes Act, 1947 (hereinafter referred as to Act) as well as against the terms of employment agreement between the parties as neither any notice nor retrenchment compensation had been paid to him. The petitioner is a workman as defined under the provisions of the Act and he used to work manually and that the allegations leveled by the respondent in the termination letter are false. It is further stated that the petitioner is EN-ISO certified in welding and was having seven years' experience and was having certificate of welding test and due to his certificate, the respondent started the welding work and that he visited the office of respondent number of times for his reengagement but except assurances nothing has been done. The work and conduct of the petitioner was always appreciated by the concerned official as nothing contrary was ever conveyed to him as neither warning letter nor chargesheet was ever served upon him during his service period. It is also stated that after the termination of the

services of the petitioner, new persons have been engaged and junior persons to him are still working with the respondent which is against the principle of "last come first go" and that the work which the petitioner was performing is still available with the respondent. It is also stated that after termination, the petitioner filed one complaint to the Hon'ble Chief Justice and also filed demand notice before the Conciliation Officer, Baddi and that the petitioner is unemployed w.e.f. 7.5.2013 and the illegal termination of the petitioner tantamounts to unfair labour practice. Against this back-drop a prayer has been made for reinstatement with seniority, continuity and back-wages along-with damages to the tune of ₹ 1,00,000/-.

3. The respondent contested the claim by filing reply wherein preliminary objections had been raised qua maintainability of petition and reference, that the petitioner being a trainee is not a workman and that the petitioner is gainfully employed. On merits, it has been asserted that the petitioner was working as technician-cum-operator/welder/trainee who executed an employment agreement dated 1.10.2012 notarized on 8.10.2012 and he was also issued appointment letter dated 1.10.2012 and since he was appointed as trainee his services had rightly been terminated in terms of employment agreement on account of unsatisfactory work/performance and even the petitioner being a trainee is not a workman and the principle of "last come first go" is not applicable in the present case. It is further submitted that the petitioner is gainfully employed and he never visited the office of respondent for re-engagement. The respondent prayed for the dismissal of the claim petition.

4. By filing rejoinder to the reply, the petitioner reaffirmed the allegations by denying those of the respondent.

5. Pleadings of the parties give rise to the following issues which were struck on 15.9.2015.

1. Whether the termination of the services of the petitioner w.e.f. 13.6.2013, is in violation of the provisions of the Industrial Disputes Act, 1947 as alleged? . . .*OPP*.
2. If issue no.1. is proved in affirmative to what relief of service benefits, the petitioner is entitled to? . . .*OPP*.
3. Whether the petitioner is not a workman as per section 2-s of the Act? . . .*OPR*.
4. Whether the petition is not maintainable as alleged? . . .*OPR*.
5. Relief.

6. Besides having heard the learned counsel for the parties, I have also gone through the record of the case carefully.

7. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under.

Issue no.1 Yes.

Issue no.2 Entitled to reinstatement in service with seniority and continuity but without back-wages.

Issue no.3 No.

Issue no.4 No.

Relief. Reference answered in favour of the petitioner and against the respondent per operative part of award.

Reasons for findings.

Issues no.1&3.

8. Being interlinked and correlated both these issues are taken up together for decision.

9. The learned counsel for the petitioner contended that the services of the petitioner had been terminated in utter violation of the provisions of the Act as neither any enquiry was conducted nor he was afforded any opportunity of being heard. He further contended that fresh hands have been engaged and juniors have been retained after the termination of the services of the petitioner in violation of the provisions of section 25-G & H of the Act.

10. On the other hand, learned counsel for the respondent contended that being the trainee, the services of the petitioner had rightly been terminated by the respondent in terms of agreement dated 1.10.2012 for unsatisfactory work. He further contended that the petitioner was engaged as trainee, hence, does not fall within the category of workman.

11. To prove issue no.1, the petitioner stepped into the witness box as PW-1 to depose that he joined the respondent company on 1.10.2012 as certified welder and worked as such till 6.5.2013, copy of appointment letter is Ex. PW-1/A. At the time of his joining in the company, an agreement was executed with the company to serve for three years but his services were terminated on 6.5.2013 and before terminating his services neither any notice was issued nor any compensation was paid to him and even no warning letter was issued and no enquiry was conducted against him. He was doing manual work. The copy of termination letter is Ex. PW-1/B. Despite requests, he was not reengaged by the respondent. His juniors are still working with the respondent and the work which he was performing is still available. Ex. PW-1/C is the copy of demand notice and that after his termination, he is unemployed. In cross-examination, he admitted that employment agreement dated 1.10.2012 Ex. RP-1 was signed by him and that except appointment letter Ex. PW-1/A and agreement Ex. RP-1, no other appointment letter was ever issued to him. He denied that he was appointed as trainee welder. He admitted that ₹ 5000/- to ₹ 7000/- per month are required for meeting day to day expenses of the family and ₹ 17903 were deposited in his account.

12. On the other hand, the respondent has examined one Shri Anil Gupta, General Manager, who tendered his affidavit Ex. RW-1/A, in examination-in-chief wherein he has reiterated almost all the contents of reply filed by the respondent. He also tendered in evidence certificate dated 16.7.2015 Ex. RW-1/B, employment contract dated 1.9.2015 Ex. RW-1/C, postal receipt dated 7.5.2013 Ex. RW-1/D, reply to demand notice Ex. RW-1/E, full and final payment detail mark RX, counter foil of bank receipt mark RY and board resolution dated 24.9.2012 mark RZ. In cross-examination, he admitted that the petitioner was appointed on 1.10.2012 vide appointment letter Ex. PW-1/A and he worked till 6.5.2013 continuously and that they used to pay the salary to the petitioner. He admitted that neither any notice was issued nor any compensation was paid to the petitioner and the enquiry was also not conducted against him prior to his termination. He further admitted that the petitioner is EN-ISO-15085 certified in welding and he was having seven years of experience prior to joining. He further admitted that at a later stage, fresh hands have been appointed after the termination of the petitioner. He denied that the petitioner had completed 240 days in 12 calendar months preceding his termination.

13. I have gone through the respective contentions of the learned counsels for the parties and also closely scrutinized the entire evidence, on record, and from the closer scrutiny thereof, it has become clear that the petitioner was appointed on 1.10.2012 vide appointment letter Ex. PW-1/A and he worked till 6.5.2013. The case of the respondent is that the petitioner was appointed as a

trainee and in terms of employment agreement Ex. RP-1, his services were terminated on 6.5.2013 on account of unsatisfactory work/performance. However, no satisfactory evidence has been led by the respondent to show that the petitioner was appointed as a trainee. The perusal of the appointment letter Ex. PW-1/A shows that the petitioner was appointed as welder w.e.f. 1.10.2012. At this stage, it would be relevant to reproduce the relevant extract of appointment letter which reads as under:

“We are pleased to offer you employment in the position of welder with JST Stesallt Transformers Pvt. Ltd. Your appointment as welder will commence on 01.10.2012.

As Welder you will be entitled to a monthly starting remuneration of ₹ 18490/- (₹ Eighteen Thousand four hundred ninety only).”

Even, in the agreement dated 1.10.2012, Ex. RP-1, it has been mentioned that the petitioner has been selected and appointed as Technician-cum-Operator in the company. The learned counsel for the respondent contended that in clause-4 of the terms and conditions of the employment agreement Ex. RP- 1, it has been mentioned that, “the trainee shall abide by the Standing orders or general rules of the company during the tenure”. However, I have perused the employment agreement Ex. RP-1 and the fact that the term, “trainee” has been mentioned in clause 4, would not make the petitioner a trainee particularly in view of the fact that in the rest of the terms and conditions of the employment agreement the word, “employee” has been mentioned. No other evidence has been led by the respondent to prove that the petitioner was appointed as a trainee. Therefore, in view of the appointment letter Ex. PW-1/A coupled with the employment agreement Ex. RP-1, it cannot be said that the petitioner was appointed as a trainee and as such it cannot be said that the petitioner is not a “workman” as defined under section 2(s) of the Act as contended by the learned counsel for the respondent.

14. Admittedly, the petitioner had worked with the respondent w.e.f. 1.10.2012 till 6.5.2013. Now, the question which arises for consideration is as to whether the services of the petitioner had been terminated in contravention of the provisions of the Act or not. It is the case of the petitioner that he had completed 240 working days in twelve calendar months preceding his termination, hence there is violation of section 25-F of the Act. However, when regard is given to the evidence on record, there is no material on record which could show that the petitioner has completed 240 working days in twelve calendar months preceding his termination. In 2009 (120) FLR 1007 incase titled as Relip Nagarpalika Vs. Babuji Gabhaji Thakore and others , the Hon’ble Supreme Court has held as under:

“The burden of proof lies on the workman to show that he had worked continuously for 240 days for the preceding one year and it is for the workman to adduce evidence apart from examining himself to prove the factum of being in employment of the employer.”

15. In AIR 2006 S.C. 110 case titled as Surindernagar District Panchyat V/s Dayabhai Amar Singh, the Hon’ble Supreme Court has held that:—*“Incase workman claims to have worked for more than 10 years as daily wager. Apart from oral evidence workman has not produced any evidence to prove fact that he has worked for 240 days. No proof of receipt of salary or wages or any record or order in that regard was produced: no co-worker was examined; muster roll produced by employer has not been contradicted. Workman has failed to discharge his burden that he was in employment for 240 days during preceding 12 months of date of termination of his service. Workman not entitled for protection of Section 25-F before his service was terminated.”*

A bare perusal of the extract of the judgment re-produced, hereinabove, shows that the burden to prove completion of 240 days service lies on the workman and this burden is discharged

on workman stepping in the witness box and adducing cogent evidence. However, in the instant case, the petitioner has failed to prove on record that he had put in 240 days in twelve calendar months preceding his termination. It is the admitted case of the petitioner that he had worked w.e.f. 1.10.2012 till 6.5.2013 as such he has not completed 240 working days in twelve calendar months preceding his termination. Hence, the case of the petitioner does not fall under section 25-F of the Industrial Disputes Act, 1947 and as such no protection of section 25-F can be granted to the petitioner.

16. The learned counsel of the petitioner also contended that at the time of the termination of the petitioner, the respondent had retained his juniors who are still working as such the respondent had violated the principles of “last come first go”. However, except for the bald statement of the petitioner, no other evidence has been led by him. There is no cogent and satisfactory evidence led by the petitioner to prove that the persons junior to him have been retained by the respondent. Hence, in the absence of any cogent and satisfactory evidence on record, the case of the petitioner does not fall under section 25-G.

17. The learned counsel for the petitioner next contended that after the termination of the petitioner fresh hands have been engaged by the respondent in violation of section 25-H of the Act. The petitioner while appearing in the witness box before this Court deposed that after the termination of his services fresh appointments were made by the respondent. This fact has also been admitted by RW-1 Shri Amit Gupta, General Manager of the respondent company in his cross-examination that at a later stage the company had appointed fresh hands after the termination of the petitioner. There is no evidence on record to suggest that any opportunity was given to the petitioner for re-employment at the time of appointment of fresh hands. It has been held by the Hon’ble Supreme Court in a series of judgments that it is not necessary for the workman to complete 240 days during preceding twelve calendar months for taking the benefit of section 25-H of the Act. In a case *Central Bank of India Vs. S. Satyam and others* (1996) 5 SCC 419, it has been held by the Hon’ble Supreme Court that 240 days of continuous service necessarily need not be completed within 12 months for taking benefit of section 25-G and H of the Industrial Disputes Act. The relevant portion of the aforesaid judgment is reproduced as under:

“The plain language of Section 25-H speaks only of re-employment of “retrenched workmen”. The ordinary meaning of the expression “retrenched workmen” must relate to the wide meaning of ‘retrenchment’ given in Section 2(oo). Section 25-F also uses the word ‘retrenchment’ but qualifies it by use of the further words “workman... who has been in continuous service for not less than one year”. Thus, Section 25-F does not restrict the meaning of retrenchment but qualifies the category of retrenched workmen covered therein by use of the further words “workman... who has been in continuous service for not less than one year”. It is clear that Section 25-F applies to the retrenchment of a workman who has been in continuous service for not less than one year and not to any workman who has been in continuous service for less than one year; and it does not restrict or curtail the meaning of retrenchment merely because the provision therein is made only for the retrenchment of a workman who has been in continuous service for not less than one year. Chapter V-A deals with all retrenchments while Section 25-F is confined only to the mode of retrenchment of workmen in continuous service for not less than one year. Section 25-G prescribes the principles for retrenchment and applies ordinarily the principles of “last come first go” which is not confined only to workmen who have been in continuous service for not less than one year, covered by Section 25-F.”

After relying upon the aforesaid judgment, our own Hon’ble High Court in a case *Latest HLJ 2007 (HP) 903*, titled as *State of Himachal Pradesh and others Vs. Bhatag Ram and others*, has held that it is not necessary for the workman to complete 240 days during 12 calendar months for

taking the benefits of section 25-G and 25-H of the Act. In the present case, as observed earlier, it has been admitted by RW-1 that the respondent had engaged fresh hands after the termination of the services of the petitioner. Since, no opportunity was given to the petitioner for re-employment, at the time of engaging fresh hands, it can ly be held that the termination of the services of the petitioner is in violation of the provisions of section 25-H of the Act.

18. Thus, in view of the law laid down (supra) and my foregoing discussion, I have no hesitation in holding that the termination of the services of the petitioner w.e.f 7.5.2013 by the respondent is in contravention of the provisions of section 25-H of the Act. Accordingly, both these issues are decided in favour of the petitioner and against the respondent.

Issue no.2.

19. Since, I have held under issue no.1 above that the termination of services of the petitioner by the respondent without complying with the provisions of the Act is improper, illegal and unjustified, hence, the petitioner is held entitled to reinstatement in service with seniority and continuity.

20. Now, the question which arises for consideration, before this Court is as to whether the petitioner is entitled to full back wages as contended by the learned counsel for the petitioner. In (2009) 1 SCC 20, Kanpur Electricity Supply Company Limited Vs. Shamim Mirza, the Hon'ble Supreme Court has held that once the order of termination of services of an employee is set-aside, ordinarily, the relief of reinstatement is available to him. However, the entitlement of an employee to get reinstated does not necessarily result in payment of full or partial back-wages, which is independent of reinstatement. It has further been held by the Hon'ble Supreme Court in 2010 (1) SLJ S.C 70, M/s Ritu Marbals Vs. Prabhakant Shukla that full back wages cannot be granted mechanically, upon an order of termination be declared illegal. It is further held that reinstatement must not be accompanied by payment of full back wages even for the period when the workman remained out of service and contributed little or nothing to the Industry.

21. Moreover, the petitioner was under an obligation to prove by leading cogent evidence that he was not gainfully employed after the termination of his services. The initial burden is on the workman/employee to show that he was not gainfully employed as held by the Hon'ble Apex Court in (2005) 2 Supreme Court Cases 363 titled as Kendriya Vidyalaya Sangathan and another Vs. S.C Sharma that:

“16.....When, the question of determining the entitlement of a person to back-wages is concerned, the employee has to show that he was not gainfully employed. The initial burden is on him. After and if he places materials in that regard, the employer can bring on record materials to rebut the claim.....”

22. In the present case, the petitioner as PW-1 has only stated that he is nowhere gainfully employed. However, except for his bald statement, no other evidence has been led by the petitioner to prove that he was not gainfully employed. The petitioner has failed to discharge his burden by placing any concrete material on record and by leading any cogent and satisfactory evidence that he was not gainfully employed after his termination/disengagement. Therefore, in view of the entire evidence, on record, coupled with the rulings (supra), I have no hesitation in holding that the petitioner is not entitled to any back-wages. Accordingly, issue no.2 is partly decided in favour of the petitioner and against the respondent.

Issue no.4.

23. In support of this issue, no evidence has been led by the respondent which could go to show that as to how this petition is not maintainable especially when the same was filed by the

petitioner pursuant to reference sent by the appropriate government to this Court for adjudication. Therefore, by holding it to be maintainable, this issue is decided in favour of the petitioner and against the respondent.

Relief.

As a sequel to my above discussion and findings on issues no.1 to 4, the claim of the petitioner succeeds and is hereby allowed with the result, the petitioner is ordered to be reinstated in service forth-with with seniority and continuity. However, the petitioner is not entitled to any back-wages and as such the reference is ordered to be answered in favour of the petitioner and against the respondent. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today on this 25th day of October, 2016.

(SUSHIL KUKREJA),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**IN THE COURT OF SUSHIL KUKREJA, PRESIDING JUDGE, INDUSTRIAL
TRIBUNAL-CUMLABOUR COURT, SHIMLA, (H.P)**

Ref. No. 56 of 2014.

Instituted on.11.8.2014.

Decided on 25.10.2016.

Naresh Kumar S/o Shri Durga Dass R/o Village & P.O Barota, Tehsil Ghumarwin, District
Bilsapur, HP. *.Petitioner.*

Vs.

M/s JST Stesalit Transformers HB No. 214, Bhatoli Kalan, Hill Top, Industrial Adre-1,
Jharmajari, Tehsil Baddi, District Solan, HP through its Employer/Managing Director.
.Respondent.

Reference under Section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri R.K Khidtta, Advocate.

For respondent : Shri Rahul Mahajan, Advocate.

AWARD

The following reference has been sent by the appropriate government for adjudication:

“Whether termination of the services of Shri Naresh Kumar S/o Shri Durga Dass R/o Village & P.O Barota, Tehsil Ghumarwin, District Bilaspur, HP w.e.f. 13.6.2013 by the Managing Director of M/s JST Transformers HB No. 214, Bhatoli Kalan, Hill Top,

Industrial Area-1, Jharmajari, Tehsil Baddi, District Solan, HP without complying with the mandatory provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what benefits, including reinstatement, amount of backwages, salary, seniority, past service benefits and compensation the above worker is entitled to from the above employer?"

2. In nutshell, the case of the petitioner is that he was engaged as Junior Engineer by the respondent management w.e.f. 17.9.2012 vide appointment letter dated 3.9.2012 and worked as such till 5.5.2013 continuously and that his services had been terminated by the respondent w.e.f. 5.5.2013 (which has been wrongly mentioned in demand notice as 13.6.2013) without following the mandatory provisions of the Industrial Disputes Act, 1947 (hereinafter referred as to Act) as well as against the norms of appointment letter as neither any notice was issued nor retrenchment compensation was paid to him. The petitioner is a workman as defined under the provisions of the Act and he used to work manually and that the allegations leveled by the respondent in the termination letter are false as the petitioner was not probationer at the time of his termination. It is further stated that the petitioner visited the office of respondent number of times for his reengagement but except assurances nothing has been done. The work and conduct of the petitioner was always appreciated by the concerned official as nothing contrary was ever conveyed to him as neither warning letter nor chargesheet was ever served upon him during his service period. It is also stated that after the termination of the services of the petitioner, new persons have been engaged and junior persons to him are still working with the respondent which is against the principle of "last come first go" and that the work which the petitioner was performing is still available with the respondent. It is also stated that after termination, the petitioner filed one complaint to the Hon'ble Chief Justice and also filed demand notice before the Conciliation Officer, Baddi and that the petitioner is unemployed w.e.f. 5.5.2013 and the illegal termination of the petitioner tantamounts to unfair labour practice. Against this back-drop a prayer has been made for reinstatement with seniority, continuity and back-wages along-with damages to the tune of ₹ 1,00,000/-.

3. The respondent contested the claim by filing reply wherein preliminary objections had been raised qua maintainability of petition and reference, that the petitioner was appointed on probation as Junior Engineer, that the petitioner being Junior Engineer is not a workman and that the petitioner is gainfully employed. On merits, it has been asserted that the petitioner joined on probation basis which was not extended or confirmed, hence his services came to an end at the closing hours of 4.5.2013 and the services of probationer could be terminated for unsatisfactory work during the probation period and in terms of appointment letter dated 3.9.2012, no notice is required to terminate the services of the probationer during the probationary period. The services of petitioner had been terminated on account of lack of performance i.e unsatisfactory work during probation period as the respondent was not satisfied with the performance of petitioner, who never followed the instructions of superiors on quality standards repeatedly during his training and probation period, hence, his services had been rightly and legally terminated in terms of appointment letter and the principle of "last come first go" is not applicable in the present case. It is further submitted that the petitioner is gainfully employed. The respondent prayed for the dismissal of the claim petition.

4. By filing rejoinder to the reply, the petitioner reaffirmed the allegations by denying those of the respondent.

5. Pleadings of the parties give rise to the following issues which were struck on 15.9.2015.

1. Whether the termination of the services of the petitioner w.e.f. 13.6.2013, is in violation of the provisions of the provisions of the Industrial Disputes Act, 1947 as alleged? . . .OPP.

2. If issue no.1. is proved in affirmative to what relief of service benefits, the petitioner is entitled to? . .*OPP.*

3. Whether the petition is not maintainable as alleged? . .*OPR.*

4. Relief.

6. Besides having heard the learned counsel for the parties, I have also gone through the record of the case carefully.

7. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under.

Issue no.1 No.

Issue no.2 Becomes redundant.

Issue no.3 No.

Relief. Reference answered in favour of the respondent and against the petitioner per operative part of award.

Reasons for findings

Issue no.1.

8. The learned counsel for the petitioner contended that the services of the petitioner had been terminated in utter violation of the provisions of the Act as neither any enquiry was conducted nor he was afforded any opportunity of being heard. He further contended that fresh hands have been engaged and juniors have been retained after the termination of the services of the petitioner.

9. On the other hand, learned counsel for the respondent contended that being the probationer, the services of the petitioner had rightly been terminated by the respondent for unsatisfactory work. He further contended that the petitioner was engaged as Junior Engineer, hence, he does not fall within the category of workman.

10. To prove issue no.1, the petitioner stepped into the witness box as PW-1 to depose that he joined the respondent company on 7.9.2012 as Junior Engineer and worked as such till 5.5.2013, copy of appointment letter is Ex. PW-1/A. His services were terminated by the respondent on 5.5.2013 and before terminating his services, neither any notice was issued nor any compensation was paid to him and even no warning letter was issued and no enquiry was conducted against him. He was doing manual work, the copy of termination letter is Ex. PW-1/B. Despite requests, he was not reengaged by the respondent. His juniors are still working with the respondent and the work which he was performing is still available. Ex. PW-1/C is the copy of demand notice and that after his termination, he is unemployed. In cross-examination, he admitted that except letter Ex. PW-1/A, no other appointment letter was ever issued to him. He denied that he was appointed on probation but admitted that he had worked till 4.5.2013 evening. He admitted that ₹ 12332/- were deposited in his account and that ₹ 15000/- per month are required for meeting day to day expenses of the family and the entire family is dependent upon him. He denied that he was never confirmed.

11. On the other hand, the respondent has examined one Shri Anil Gupta, General Manager, who tendered his affidavit Ex. RW-1/A, in examination-in-chief wherein he has

reiterated almost all the contents of reply filed by the respondent He also tendered in evidence certificate dated 16.7.2015 Ex. RW-1/B, employment contract dated 1.9.2015 Ex. RW-1/C, postal receipt dated 7.5.2013 Ex. RW-1/D, reply to demand notice Ex. RW-1/E, full and final payment detail mark RX, counter foil of bank receipt mark RY and board resolution dated 24.9.2012 mark RZ. In cross-examination, he admitted that the petitioner was engaged as Junior Engineer w.e.f. 17.9.2012 vide appointment letter Ex. PW-1/A and he worked as such till 5.5.2013 continuously. He denied that the petitioner was not engaged on probation basis and that the probation period was only for a period of six months. He admitted that after the completion of six months, the petitioner had worked with the respondent. He admitted that neither any notice was issued nor any compensation was paid to the petitioner and the enquiry was also not conducted against him prior to his termination. He admitted that the petitioner was working manually on machines. He further admitted that fresh hands have been engaged after the termination of the petitioner. He expressed his ignorance that the petitioner had completed 240 days in 12 calendar months preceding his termination.

12. I have closely scrutinized the entire evidence, on record, and from the closer scrutiny thereof, it has become clear that the petitioner was engaged as Junior Engineer by the respondent company on probation for a period of six months as per appointment letter Ex. PW-1/A and his services were terminated vide termination letter dated 4.5.2013 Ex. PW-1/B.

13. The law in relation to the service of an employee on probation is well settled. The termination of the services of the probationer, during or at the end of the period of probation does not affect any of his right, as indeed he has no right to continue to hold the post, save and except after confirmation. However, where a probationer is stigmatized, evil consequences flow. He has to live with the stigma all his life. This stigma would affect his future prospects of finding suitable employment elsewhere. Therefore harmonizing the right of the employer and the right of employee, the service jurisprudence has recognized that where the termination of the services of a probationer visits him with a stigma or is penal or malafide, the probationer would have a right to justify that the cause which has resulted in his being removed is other than relating to his personal capacity, suitability, utility or capacity to work. In (1999) 2 SCC 21, titled as Radhey Shyam Gupta Vs. U.P State Agro Industries Corporation Ltd., and another, it has been held by the Hon'ble Apex Court that the test applicable to government servants or public sector employees, are equally applicable to labour dispute of such nature relating to the private sector. In (2010) 2 SCC 623, titled as Chaitanya Prakash & another Vs. H. Omkarappa, it has been held by the Hon'ble Supreme Court that even if an order of termination refers to unsatisfactory service of the person concerned, the same cannot be said to be stigmatic. The relevant portion of the aforesaid judgment is reproduced as under:

“18. It is no longer res integra that even if an order of termination refers to unsatisfactory service of the person concerned, the same cannot be said to be stigmatic.....

19.

20. In Pavanendra Narayan verma v. Sanjay Gandhi PGI of Medical Sciences, this Court had the occasion to determine as to whether the impugned order therein was a letter of termination of services simpliciter or stigmatic termination. After considering various earlier decisions of this court in para 21 of the aforesaid decision it was stated by this Court thus :—

“21. One of the judicially evolved tests to determine whether in substance an order of termination is punitive is to see whether prior to the termination there was (a) a full-scale formal enquiry (b) into allegations involving moral turpitude or misconduct which (c) culminated in a finding of guilt. If all three factors are present the

termination has been held to be punitive irrespective of the form of the termination order. Conversely if any one of the three factors is missing, the termination has been upheld.”

21. In *Abhijit Gupta*, this Court considered as to what will be the real test to be applied in a situation where an employee is removed by an innocuous order of termination i.e whether he is discharged as unsuitable or he is punished for his misconduct. In order to answer the said question, the Court relied and referred to the decision of this Court in *Allahabad Bank Officers Assn. V. Allahabad Bank* where it is stated thus :—

“14.....As pointed out in this judgment, expressions like “want of application”, “lack of potential” and “found not dependable” when made in relation to the work of the employee would not be sufficient to attract the charge that they are stigmatic and intended to dismiss the employee from service.”

In 2010 LLR 970 case titled as Ram Lal Sharma Vs. Himachal Road Transport Corporation & Anr., it has been held by our own Hon’ble High Court that it is always expected from the employer to keep on reviewing the work and conduct of the employee to assess whether he is suitable to be retained on the post or not during the period of probation. The relevant portion of the aforesaid judgment is reproduced as under:

“In the present case, the notice has been issued to the petitioner when the employer was not satisfied with his work and conduct. It is always expected from the employer to keep on reviewing the work and conduct of the employee to assess whether he is suitable to be retained on the post or not during the period of probation. The petitioner was on probation for a period of two years which was extended by another one year. It was during the extended period of probation that his work and conduct was looked into by the employer. The fact that it has been mentioned in the notice that few passengers were found ticket less at the time of checking of the bus will not make the termination of the petitioner stigmatic/punitive. This was quoted only to apprise the petitioner that his work and conduct was not satisfactory.”

14. From the aforesaid decisions, the legal position which emerges is that where an enquiry is conducted into an alleged misconduct committed by the probationer behind his back and a simple order of termination is passed founded on the report of the enquiry indicting the probationer, the action of the termination of the services of the probationer would be tainted. But where no findings are arrived at, any enquiry or no enquiry is held but the employer chooses to discontinue the services of an employee against whom complaints are received, it would be a case of complaints motivating the action of termination of the services of the probationer and hence would not be tainted.

15. In the back-drop of the above legal position, now it has to be determined as to whether the order dated 4.5.2013 passed by the respondent company terminating the services of the petitioner is stigmatic/punitive and tainted. The petitioner was on probation and his services have been terminated during the period of probation. No material has been placed on record by the petitioner that his services have been confirmed at any point of time. The appointment of the petitioner was subject to the conditions of appointment stipulated in the appointment letter Ex. PW-1/A. In the terms and condition of the appointment letter it has been clearly mentioned that regular performance review will be conducted to assess the terms and suitability and unless the petitioner is confirmed in writing at the end of the probation period or extension thereof, his services with the company will automatically stand terminated. The relevant portion of the terms and conditions of the appointment letter reads as under:

“Probation and termination of employee: You will be on a probation period of six months. Regular performance review will be conducted to assess your performance and suitability. Your continued employment as Junior Engineer is dependent on your successful completion of the probationary period. This period may be extended at company’s option. During probationary period, the service will be terminated on either side without any notice and assigning any reason. Unless you are confirmed in writing at the end of probation period or extension thereof, your service with the company will be automatically stand terminated.”

As per termination letter Ex. PW-1/B, the services of the petitioner were terminated for lack of performance. At this stage, it will be relevant to reproduce the extract of the termination letter which is as under:

“This is to inform you that the management has hereby decided to terminate your services with immediate effect. The reason for the same is lack of performance.

We would also like to bring your notice that you are on probationary period and company found that reason and unsatisfied with your working, the company cannot extend your probationary period. That why decided to terminate your services with immediate effect. Your services to our organization would cease at the closing hours of 4th day of May, 2013.”

A bare perusal of the aforesaid order of termination order shows that it was not passed by way of punishing the petitioner for any misconduct. In such a situation, it cannot be said that the termination order Ex. PW-1/B was stigmatic or punitive in nature. It was only an order of termination simpliciter and no stigma was attached to it and it cannot be regarded as punitive requiring an enquiry into his conduct or attracting the principles of natural justice.

16. The learned counsel for the petitioner next contended that as per the appointment letter Ex. PW-1/A, the probation period of the petitioner was for six months w.e.f. 3.9.2012 but after the expiry of the probation period, he was allowed to continue in service as such it was a deemed confirmation and his services could not have been terminated without conducting an enquiry. However, this contention of the learned counsel for the petitioner deserves to be rejected because mere continuance of the services of the petitioner without confirmation cannot be said to be a deemed confirmation. In CWP No. 3736/2009 titled as Suman Sharma Vs. Union of India, decided on 31.12.2014, it has been held by our own Hon’ble High Court that the confirmation order in writing is must and mere continuance, after expiry of probation period could not be said to be deemed confirmation. The relevant portion of the aforesaid judgment is reproduced as under:

“26. Applying the ratio and keeping in view the facts and circumstances of the case on hand, read with the discussion made by the Administrative Tribunal, we are of the considered view that the confirmation order in writing was must and mere continuance, after expiry of probation period, cannot be said to be deemed confirmation.”

Hence, in view of the aforesaid decision of the our own Hon’ble high Court, since, the services of the petitioner were never confirmed in writing as such mere allowing him to continue in service after the expiry of the probation period cannot be said to be a deemed confirmation as contended by the learned counsel for the petitioner.

17. Now, the next question which arises for consideration before this Court is as to whether section 25-F of the Act is attracted in the present case. The stand of the respondent is that the petitioner was a probationer and during the period of probation his services could be terminated without any notice or without assigning any reason as stipulated in the appointment letter as such

the termination of the petitioner did not amount to retrenchment and provisions contained in section 25-F of the Act are not attracted.

18. In AIR 1994 Supreme Court 1343 titled as M. Venugopal Vs. Divisional Manager, Life Insurance, Corporation of India, Machilipatnam, Andhra Pradesh and another, the Hon'ble Apex Court had an occasion to consider similar case of termination of probationer and it was held that the employer was entitled to terminate the services of a probationer during the period of probation without any notice. It was further held that the termination of the probationer shall not be deemed to be retrenchment within the meaning of section 2 (oo) of the Act. The relevant portion of the aforesaid judgment reads as under:

“14. The amendments introduced in Section 48 of the Corporation Act have clearly excluded the provisions of the Industrial Disputes Act so far as they are in conflict with the rules framed under Section 48(2)(cc). The result whereof will be that termination of the service of the appellant shall not be deemed to be a "retrenchment" within the meaning of Section 2(oo) even if sub-section (bb) had not been introduced in the said section. Once Section 2(oo) is not attracted, there is no question of application of Section 25-F on the basis of which the termination of the service of the appellant can be held to be invalid. The termination of the service of the appellant during the period of probation is in terms of the order of appointment read with I Regulation 14 of the Regulations, which shall be deemed to be now Rules under Section 48(2)(cc) of the Corporation Act.

15. Even under general law, the service of a probationer can be terminated after making an overall assessment of his performance during the period of probation and no notice is required to be given before termination of such service. This aspect has been examined by this Court in the case of The Governing Council of Kidwai Memorial Institute of Oncology, Bangalore v. Dr Pandurang Godwalka where it has been pointed out that if the performance of the employee concerned during the period of probation is not found to be satisfactory on overall assessment, then it is open to the competent authority to terminate his service.”

19. In the instant case, the conditions incorporated in the letter of appointment clearly provide for termination of service during the period of probation without any notice and without any reason. Therefore, it can safely be held that in bringing about an end to the services of the petitioner during the period of probation, the respondent was not required to give any notice or to pay any compensation in terms of section 25-F of the Act. The termination of the services of the petitioner did not amount to retrenchment and could not be invalidated for non-compliance of section 25-F of the Act. Moreover, it is the admitted case of the petitioner that he joined with the respondent on 17.9.2012 and his services were terminated w.e.f. 5.5.2013 as such he had not completed 240 days, therefore also, the provisions of section 25-F of the Act are not applicable to the present case.

20. The further case of the petitioner is that after his termination, the respondent had appointed fresh hands and retained his juniors. However, except for his bald statement, no other evidence has been led by him. There is no cogent and satisfactory evidence led by the petitioner to prove that fresh hands have been engaged and his juniors have been retained by the respondent after his termination. Therefore, in the absence of any evidence on record, it cannot be said that the termination of the petitioner is in violation of the provisions of section 25-G and 25-H of the Act.

21. Thus, in view of the law laid down (supra) and my foregoing discussion, I have no hesitation in holding that the termination of the services of the petitioner w.e.f 5.5.2013 by the respondent is not illegal and unjustified. Accordingly, issue no.1 is decided in favour of the respondent and against the petitioner.

Issue no.2.

22. Since, the petitioner has failed to prove issue no.1 above, this issue becomes redundant.

Issue No.3.

23. In support of this issue, no evidence has been led by the respondent. However, the petitioner has filed this claim petition pursuant to the reference made by the appropriate government to this Court for adjudication and I find nothing wrong with this petition which is perfectly maintainable. Accordingly, this issue is decided in favour of the petitioner and against the respondent.

Relief.

As a sequel to my above discussion and findings on issues no.1 to 3, the claim of the petitioner fails and is hereby dismissed and as such the reference is ordered to be answered in favour of the respondent and against the petitioner. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today on this 25th Day of October, 2016.

(SUSHIL KUKREJA),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**IN THE COURT OF SUSHIL KUKREJA, PRESIDING JUDGE, INDUSTRIAL
TRIBUNALCUM-LABOUR COURT, SHIMLA, (H.P)**

Reference no. 8 of 2013.

Instituted on. 6.3.2013.

Decided on 27.10.2016.

1. Suresh Kumar S/o Shri Baldev Krishan, R/o Village Nari, P.O Dera Bab Rudru, District Una HP.
2. Shashi Pal S/o Shri Dharam Pal R/o Village Gagat, P.O Gagat Khlio, Tehsil Palampur, District Kangra HP.
3. Rajeev Chauhan S/o Shri Ranbir Singh R/o Village Aakrohal, P.O Bhareri, Tehsil Bhoranj, District Hamirpur, HP.
4. Sushil Kumar S/o Shri Param Chand R/o Village & P.O Goralghar, Tehsil Jaswan Kotla, District Kangra, HP.
5. Ram Chand S/o Shri Tulsi Ram R/o Village Tallar P.O Sai, Tehsil Baddi, District Solan, HP.

6. Anil Kumar S/o Shri Bansri Ram R/o VPO Khundla, Tehsil Sarkaghat, District Mandi, HP.
 7. Amar Singh S/o Shri Ramasra R/o Village Thalla, P.O Thana, Tehsil Nalagarh, District Solan, HP.
 8. Shashi Kumar S/o Shri Rama Nand R/o Village Simmu, P.O Piplughat, Tehsil Arki District Solan, HP.
 9. Leela Bati W/o Shri Sanja Kumar R/o Village Dhanrishi, P.O Soddot, Tehsil Sarkaghat, District Mandi, HP.
 10. Lalita Sharma D/o Shri Deep Ram Sharma R/o Village Dhalaya, P.O Jabri, Tehsil & District Shimla, HP.
 11. Shanta Devi W/o Shri Yudhvair Singh R/o Village Chhaprahan-II, P.O Nandi, Tehsil Gohar, District Mandi, HP.
- .Petitioners.*

Vs.

1. The managing Director, Euro Solo Energy System Ltd., 4th Floor, Euro House above Tangent Furniture, Mind Space, Chincholi Bunder Road Office Link Road behind Inhrbit Mall, Malda (W) Mumbai.
 2. The General Manager, Euro Solo Energy System Ltd. Village Gullarwala, District Solan, HP.
- . Respondents.*

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioners : Shri Rajinder Sharma, Advocate.

For respondents : Already ex-parte. AWARD.

The following reference has been sent by the appropriate government for adjudication:

“Whether termination of the services on the pretext of Lay-off of Shri Amar Singh & 10 other workers (as per list attached along-with addresses at Annexure –A) by the General Manager, Euro Solo Energy, Ltd Village Gullarwala, District Solan during May, 2011 is legal and justified? If not, what amount of back-wages, seniority, past service benefits and compensation etc., the above workmen are entitled to from the above management/employer?”

2. Before, I proceed further it is important to mention here that after the receipt of reference, in this Court, notices were issued to the parties, however, the respondents have failed to appear before this Court despite having been served, hence, vide order dated 4.3.2014, they were proceeded against ex-parte.

3. The petitioners have filed a joint statement of claim wherein it has been stated that petitioners no. 1 to 6 & 8 to 11 were initially engaged as machine operators on 26.7.2006, 8.5.2006, 8.5.2006, 25.6.2006, 5.5.2006, 4.5.2006, 10.5.2006, 5.5.2006 and 8.5.2006 respectively and petitioner no.7 was initially engaged as electrician on 15.5.2006 and since the date of their

engagements, they discharged their duties honestly to the entire satisfaction of their superiors and nothing adverse has ever been conveyed regarding their work and conduct. All the petitioners have completed 240 days in each calendar year but on 11.5.2011, when they reached the office of respondent company, they saw the notice regarding the layoff of the company and after enquiry it was disclosed to them by the respondent management that due to financial crisis in the company, the respondent is not in a position to run the company in future which stand had been taken by the company just to mislead the workers as till date the company was not declared as sick company by the appropriate government, hence, the notice displayed regarding layoff is just to harass the petitioners along-with other workers and with the intention to retrench the workers from the company as the management wants to merge or transfer the company with other company. The layoff notice dated 11.5.2011 is illegal as the respondents company was duty bound to give prior notice to this effect but no such prior notice had been served upon the petitioners which is mandatory in law and even regarding layoff, prior permission from the State Government had not been taken by the respondents. It is further stated that the respondents have miserably failed to comply with the provisions of sections 25-C, 25-F, 25-G, 25-H and 25-N of the Industrial Disputes Act, 1947 (hereinafter referred as to Act) as no notice was ever issued to the petitioners before terminating their services and that the petitioners have come to know that on 22.5.2011, settlement had been signed by some of the workers of the company but the said agreement is not binding upon the rights of the petitioners as they are not the parties in that settlement/agreement. It is also stated that after declaration of layoff, the respondents company had closed the company at Baddi, hence, the petitioners are entitled to compensation and future loss compensation as per law as the respondents have not followed the mandatory law as per the Act and even the services of the petitioners have been terminated during the pendency of the demand notice. Against this back-drop it is prayed that the layoff notice dated 11.5.2011 be quashed and set aside and the respondents be directed to reinstate the petitioners with all the consequential service benefits and in the alternative the respondents be directed to pay compensation to the tune of ₹ 1,00,000/- to each of the petitioner for undue harassment.

4. By leading ex-parte evidence, all the petitioners have stepped into witness box as PW-1 to PW-11 and tendered their affidavits Ex. PW-1/A to Ex. PW-11/A wherein they have reiterated almost all the averments as made in the claim petition.

5. I have heard the learned counsel for the petitioners and also scrutinized the entire record of the case.

6. After the closer scrutiny of the record of the case, it has become clear that all the petitioners were employed with the respondent company w.e.f. the year, 2006 and they were the regular employees of the company on its muster rolls. In their deposition before this Court all of them have stated that they have completed more than 240 days in each calendar year. It has been specifically deposed by all of the petitioners that on 11.5.2011, the respondent company put the lock on the main gate and displayed the notice annexure P-2 regarding the layoff of the company. At this stage, it would be relevant to reproduce notice Annexure P-2, which reads as under:

“All the workers, employees of Euro Solo Energy System P. Ltd., Village Gullarwala, Solan Dist. HP are hereby informed that due to unavoidable circumstances, the management is constrained to declare LAY-OFF in the factory with effect from 11.5.2011 till further notice.”

The perusal of the aforesaid notice shows that the lay-off has been declared in the factory due to unavoidable circumstances. However, as per section 2(kkk) of the Act the only reason for “lay-off” could be due to shortage of coal, power or raw materials or the accumulation of stocks or the break-down of machinery or natural calamity or for any other connected reason. At this stage it would be relevant to reproduce section 2(kkk) of the Act which reads as under:

“lay-off” (with its grammatical variations and cognate expressions) means the failure, refusal or inability of an employer on account of shortage of coal, power or raw materials or the accumulation of stocks or the break-down of machinery [or natural calamity or for any other connected reason] to give employment to a workman whose name is borne on the muster rolls of his industrial establishment and who has not been retrenched.”

The perusal of the aforesaid section shows that it does not take care of the other situation which may require the employer to declare instantaneous lay-off without leaving any scope for seeking permission of the authority under the Act. “Unavoidable Circumstances” is not a case for which lay-off can be declared. As per annexure P-4 filed along-with the petition, it has become clear that there were more than 200 employees employed in the respondent company. As there were more than 200 workers working in the respondent company, hence, the provisions of chapter-V-B are applicable in the present case. So far as the question of exemption from the condition of prior permission is concerned, an industrial establishment to which chapter-V-B applies can lay-off without permission only when the lay-off is for the reasons specified in section 25-M(1) i.e shortage of power and natural calamity. The petitioners have placed on record the information under Right to Information Act dated March, 16th from PIO-cum- Dy. Labour Commissioner, HP wherein it has been informed to the workers that no application has been received by the office of the Labour Commissioner from the management of M/s Euro Solo Energy System Ltd., Village Gullarwala (Baddi) District Solan HP for declaring lay-off of its workers during 2011 and that the Labour Commissioner has been vested with the powers of appropriate government to grant permission for declaring lay off under section 25-M of the Act.

7. From the perusal of the evidence on record led by the petitioners it is clear that no application has been filed by the respondent company for taking prior permission from the appropriate authority under the Act for declaring lay-off as per the provisions of section 25-M (1) of the Act. Hence, in the absence of any prior permission from the competent authority for laying-off, such lay-off without permission would be in contravention of the provisions of section 25-M (1) of the Act. Section 25-M (8) of the Act provides that where no application for permission is made before laying-off the workmen, they shall be entitled to all the benefits. At this juncture it would be relevant to reproduce section 25-M(8) which reads as under:

”Where no application for permission under sub- section (1) is made, or where no application for permission under sub- section (3) is made within the period specified therein, or where the permission for any lay- off has been refused, such lay- off shall be deemed to be illegal from the date on which the workmen had been laid- off and the workmen shall be entitled to all the benefits under any law for the time being in force as if they had not been laid- off.”

In the present case also since no prior permission has been obtained from the appropriate authority by the respondent company for declaring lay-off as such the lay-off declared by the respondent company w.e.f. 11.5.2011 by means of notice annexure P-2 is illegal. From the perusal of evidence on record, it is clear that the respondent company has declared lay-off only to oust the petitioners out of service and had terminated their services under the garb of the declaration of lay-off which amounts to unfair labour practice. Hence, the termination of the services of the petitioners on the pretext of lay-off is illegal and unjustified.

8. Since, I have held that the termination of the services of the petitioners on the pretext of lay-off is illegal and unjustified, hence, it is to be seen as to what service benefits can be granted to the petitioners. In the claim petition it has been pleaded that after the declaration of lay-off, the respondent company closed down its unit at Baddi. It is by now well settled that if the termination of employee is found to be illegal, the relief by way of reinstatement with back-wages is not

automatic. The Hon'ble Supreme Court in Santosh Kumar Seal and others reported in 2010 LLR 677: 2010 III CLR 17 SC, has held that relief by way of reinstatement with back wages is not automatic even if termination of an employee is found to be illegal or is in contravention of the prescribed procedure and that mandatory compensation in lieu of reinstatement and back wages in cases of such nature may be appropriate.

9. In Jagbir Singh Vs. Haryana State Agricultural Marketing Board (2009) 15 SCC 327, the Hon'ble Supreme Court has held that:

“It is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and maybe wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.”

10. In the present case, even though the termination of the petitioners on the pretext of lay-off is held to be illegal but their reinstatement will not be appropriate relief in view of the fact that the respondent company had closed its unit at Baddi. Therefore, in such a situation, it would not be appropriate to make the order of reinstatement in the present case. Hence, taking into account all the facts and circumstances of the case, the ends of justice would be met, if the lump sum compensation in lieu of reinstatement and back-wages is awarded to the petitioners. Therefore, in my view the petitioners are entitled to receive a suitable, appropriate, just and equitable compensation from the respondents and keeping in view the facts and circumstances of the case, it would be quite reasonable and justified if lump sum compensation of ₹ 50,000/- (₹ Fifty Thousand only) is awarded to each of the petitioners instead of reinstatement.

Final Order:

As a sequel to my aforesaid discussion, the claim of the petitioners is allowed and as such the respondents are directed to pay ₹ 50,000/- (₹ Fifty Thousand only) as lump sum compensation to each petitioner within a period of three months from today failing which the same shall carry interest @ 9% per annum from the date of publication of this award. The reference is answered accordingly. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open Court today on this 27th Day of October, 2016.

(SUSHIL KUKREJA),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

19.10.2016.

Present: None for the petitioner.

Shri Vinay Verma, ADA for respondent.

Case called twice but none appeared on behalf of the petitioner. It is 10:45 AM.

Be awaited.

(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla.

Case called again.

Present: None for the petitioner.

Shri VinayVerma, ADA for respondent.

It is 12:50 PM. Case called again but none appeared on behalf of the petitioner. Be called after lunch.

(SUSHILKUKREJA),
Presiding Judge,
Labour Court, Shimla.

Case called after lunch.

Present: None for the petitioner.

Shri VinayVerma, ADA for respondent.

Case called repeatedly in pre an post lunch sessions but none appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition on behalf of the petitioner but neither the petitioner nor his counsel appeared before this Court which shows that the petitioner is not interested to pursue his claim arising out of the reference. Hence, this Court is left with no other alternative but to decide the reference on the basis of material whichever is available on file. The following reference has been received from appropriate government for adjudication:

“Whether alleged termination of services of Shri Naresh Kumar S/o Shri Changu Ram R/o Village Roog, P.O Dahan, Tehsil Rajgarh, District Solan, HP during the year, 1986 by the Executive Engineer, HPPWD Division Rajgarh, District Sirmour, HP, who has raised his industrial dispute after about 25 years allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view the delay of 25 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer?”

From the aforesaid reference is the clear that the petitioner has alleged his termination during the year, 1986 to be illegal and unjustified but despite having afforded opportunities, he has failed to file any claim. The aforesaid reference also makes it clear that the petitioner has raised the present dispute after about 25 years which seems that the petitioner is not serious about the present dispute. Therefore, in the absence of any material on record, it cannot be said that the services of the petitioner had been illegally terminated by the respondent during the year 1986. Hence, the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced:
19.10.2016.

(SUSHILKUKREJA),
Presiding Judge,
Labour Court, Shimla.

M/S Indo Farm Equipment Ltd. Baddi District Solan H.P.

19-10-2016. Present: Petitioner with Shri J.C. Bhardwaj, AR.
Shri Chatter Singh, Manager, with Shri H.R. Thakur, Advocate.

At this stage, it has been stated by Shri Chatter Singh, Manager for respondent company that the company is ready and willing to re-instate the petitioner in service with seniority and continuity but without back-wages at Baddi in serving department where he was working prior to his termination. He further stated that the petitioner may join with respondent company on or before 2-11-2016. To this effect his statement recorded separately.

Vide separate statement, the petitioner has stated that he is willing to be reinstated in service with seniority and continuity but without back-wages and reference be decided accordingly.

In view of the aforesaid statements of the parties. I am satisfied that a lawful compromise/settlement has been effected between the parties. Therefore, the respondent is directed to reinstate the petitioner in service with seniority and continuity but without backwages at Baddi where he was serving prior to his termination on or before 2-11-2016 and as such the award is passed accordingly in terms of the statements of the parties which shall form part of this award. Let a copy of this award be sent to the appropriate government for publication of official gazette. File, after completion be consigned to records.

Announced:
19-10-2016

(SUSHIL KUKREJA),
Presiding Judge,
Labour Court, Shimla.

**IN THE COURT OF SUSHIL KUKREJA, PRESIDING JUDGE, INDUSTRIAL
TRIBUNAL-CUMLABOUR COURT, SHIMLA, (H.P) CAMP AT NALAGARH**

Ref. No. 66 of 2012.

Instituted on. 14.12.2012.

Decided on 21.10.2016.

Shakuntla Devi W/o Shri Ram Asray Maurya, R/o VPO Rajpura, Tehsil Nalagarh, District Solan, HP though Shri J.C Bhardwaj, President, HP AITUC, HQ Saproon, Solan, HP. . *Petitioner.*

Vs.

M/s L.S Industries Ltd., Village, Bersan, P.O Manjholi, Tehsil Nalagarh, District Solan, HP, through its General Manager. *. Respondent.*

Reference under Section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri J.C Bhardwaj, AR

For respondent : Shri Rajiv Sharma, Advocate.

AWARD

The following reference has been sent by the appropriate government for adjudication:

“Whether termination of the services of Smt. Shakuntla Devi W/o Shri Ram Asre Morya, Post Office Rajpura, Tehsil Nalagarh, District Solan, HP w.e.f. 21.6.2011 by the General Manager, L.S Industries Ltd., Village Bersan, P.O Manjholi, Tehsil? Nalagarh, District Solan, HP without complying the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back-wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer?”

2. In nutshell the case of the petitioner is that she was appointed as helper by the respondent company during the month of July, 2010 and remained continued as such till 21.6.2011 when she was illegally removed from service without any cogent reasons. The petitioner from 21.6.2011 till 24.6.2011 continuously visited the factory gate with the purpose of resuming her duties but the management had dispensed her services without the compliance of section 25-F/ 25-N of the Industrial Disputes Act, 1947 (hereinafter referred as to Act) and even her earned wages for the month of June, 2011 were not paid by the respondent. It is further stated that the respondent management had issued two letters dated 18.6.2011 and 23.6.2011 in the name of show cause notice, wherein in the first letter it has been mentioned that the petitioner had misbehaved with her senior incharge and in the second letter it was alleged that she remained willfully absent and gross-negligence of the duties. On 29.6.2011 the petitioner submitted truth based explanation to the above said letters. From 21.6.2011 to 24.6.2011, she attempted to resume her duties and also approached the higher authorities of the company but she was not allowed to meet unless she submits her resignation from service and finally she was told that her services had already been terminated. Thereafter, the petitioner sent a written representation on 24.6.2011 and the copy of the same was also endorsed to the labour-cum-conciliation officer, hence, the conciliation proceedings were commenced but the management had not reinstated her in service. On 4.6.2011, the petitioner fell seriously ill and admitted in the ESI Hospital where she remained under treatment till 8.6.2011 and after discharge, the Doctor had advised her complete rest till 12.6.2011 and she had conveyed about her illness to the respondent management along-with medical certificates and resumed her duties on 14.6.2011 but after some time the supervisor came there and started abusing loudly on the petitioner without knowing the reason of her absence from the work and when she tried to explain her position, then the supervisor threatened her by stating that he would slap on her face in case she failed to submit her resignation from service. Thereafter, the petitioner approached the Manager HR and G.M of the factory but no action was taken against the supervisor and she had been threatened to be terminated from service. Due to weakness and incomplete rest, the petitioner again fell ill and took treatment from Civil Hospital Nalagarh since 16.6.2011 and after the recovery from illness, she went to join her duties on 21.6.2011 but her entry on the gate was stopped and she was asked to submit her resignation. The action of the respondent management in terminating of the services of the petitioner without following any procedure is unfair labour practice as no notice under section 25-N/25-F was issued to her. The petitioner had completed 240 days in each calendar year and her juniors had been retained in the employment in violation of the provisions of section 25-G and 25-H of the Act. Against this back-drop a prayer has been made that she be reinstated in service with all the consequential service benefits including back-wages.

3. The respondent contested the claim of the petitioner by filing reply wherein various preliminary objections have been taken qua maintainability, that the petitioner has not come to this Court with clean hands and that the petitioner is gainfully employed. On merits, it has been asserted

that the petitioner joined with the respondent on 27 th July, 2010 and remained as such till 14.6.2011 on which date she indulged in grave misconduct with her superior and when the other immediate superior tried to make her understand she left the place and thereafter remained absent from duty without any sanctioned leave or information and the respondent management waited for the petitioner upto 18.6.2011 but she failed to join her duties. Thereafter, a show cause notice had been issued to petitioner but of no use and then again on 23.6.2011, a 2nd show cause notice was issued but of no use and thereafter a final notice dated 25.6.2011 was issued to her by giving her three months prior notice salary with all financial dues and deleted her name from the roll of the company and as such the case of the petitioner does not fall under illegal retrenchment and even she had not completed 240 days with the respondent, hence, she cannot claim any benefits of section 25-F of the Act. Since, the petitioner choosed to remain absent after committing grave misconduct and remained mum over the show cause notices, hence, her services had rightly been terminated. The respondent prayed for the dismissal of the claim petition.

4. By filing rejoinder, the petitioner reaffirmed his allegations by denying those of the respondent.

5. Pleadings of the parties gave rise to the following issues which were struck on 31.12.2013.

6. Whether the termination of services of the petitioner without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified as alleged?

. .OPP.

7. If issue no.1 is proved in affirmative to what service benefits the petitioner is entitled to?

. .OPP.

8. Whether the petition is not maintainable?

. .OPR.

9. Relief.

6. Besides having heard the AR for the petitioner and learned counsel for respondent, I have also gone through the record of the case carefully.

7. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under.

Issue no.1 Yes.

Issue no.2 Entitled to reinstatement in service with seniority and continuity but without back-wages.

Issue no.3 No.

Relief. Reference answered in favour of the petitioner and against the respondent per operative part of award.

Reasons for findings.

Issues no.1

8. The AR for the petitioner contended that the services of the petitioner had been terminated illegally without complying with the provisions of the Act especially when she had completed more than 240 working days in the calendar year preceding her termination. He further contended that the services of the petitioner had been terminated without conducting any enquiry and without issuing any chargesheet. He also contended that juniors to the petitioner are still working with the respondent company.

9. Conversely, the learned counsel for the respondent contended that petitioner had abandoned the job at her own. He further contended that as the petitioner failed to resume her duties despite issuance of show cause notices, hence, her name was deleted from the rolls of the company by giving her three months prior notice salary with her all financial dues.

10. To prove this issue, the petitioner stepped into the witness box as PW-1 and tendered in evidence her affidavit Ex. PA wherein she reiterated almost all the averments as stated in the claim petition. She also tendered in evidence discharge slip Ex. P-1, fitness certificate Ex. P-2, letter of medical reimbursement from ESI Ex. P-3, OPD treatment slip Ex. P-4, certificate of fitness Ex. P-5, show cause notice Ex. P-6, second show cause notice dated 23.6.2011 Ex. P-7, representation and demand notice Ex. P-8, letter dated 25.6.2011 Ex. P-9, reply to notices dated 18.6.2011, 23.6.2011 and 25.6.2011 Ex. P-10. In cross-examination, she admitted that photocopy of ration card Ex. R-1 had been submitted by her to the respondent at the time when she applied for job and that Ex. R-2 is her bio-data. She further admitted that Kamal was her unit incharge and she worked under him. She expressed her ignorance that she misbehaved with Shri Kamal Raj on 14.6.2011. She denied that she used filthy language against her superior. She further denied that she had not worked for 240 days. She also denied that she had not submitted any documents regarding her illness and that she had abandoned the job at her own.

11. On the contrary, the respondent examined two RWs. RW-1 Shri Prem Raj, HR Manager has stated that the petitioner was working with them and she joined on 27.7.2010 and worked till 14.6.2011. The petitioner misbehaved with her senior and on the complaint of her senior, a show cause notice Ex. RW-1/A was issued to her on her permanent residential address vide postal receipt Ex. RW- 1/B which was also sent to her on her temporary address vide Ex. RW-1/C and postal receipt is Ex. RW- 1/D thereafter second show cause notice was issued to her on her permanent as well as temporary address vide Ex. RW-1/E and Ex. RW-1/F vide postal receipts Ex. RW-1/G and Ex. RW-1/H and then final show cause notice was issued to her on her permanent as well as on temporary addresses, vide Ex. RW-1/J and Ex. RW-1/K postal receipts of which are Ex. RW-1/L and Ex. RW-1/M. He further deposed that when the petitioner did not turn up, full and final legal dues have been sent to her. The petitioner had not completed 240 days in any calendar year and that vide Ex. RW-1/N, she applied for withdrawal of her provident fund which was contributed by them. In cross-examination, he admitted that the petitioner had fallen ill on 4.6.2011 and she remained admitted in ESI hospital till 8.6.2011. He denied that the supervisor misbehaved with the petitioner and thereafter she was thrown out of the factory. He further denied that she had again come to the factory to join her duties but she was not allowed to join. He admitted that neither any chargesheet was issued to the petitioner nor any enquiry was conducted against her. He denied that the petitioner had submitted reply to all show cause notices on 29.6.2011. He admitted that on Ex. RW-1/N, the date of joining of the petitioner has been given as 1.4.2011 and date of her leaving is given as 15.6.2011 and that on 14.6.2011 many juniors to the petitioner were working.

12. RW-2 Shri Kirti Singh Gosai, HR Manager has stated that the detail of working days of the petitioner is Ex. RW-2/A, attendance register is Ex. RW-2/B and adult works register is Ex. RW-1/C. In cross-examination, he admitted that the wages of 29 days were given in the month of August, 2010 and that total number of working days is marked by way of entry in pencil with respect to the petitioner. He further admitted that on Ex. RW-2/B, neither the presence nor the

absence of the petitioner is marked on 16th and 26th October, 2010, 22 and 26th November, 2010. He denied that the attendance of the petitioner for the entire month is marked in one day. He also admitted that on Ex. RW-2/B neither the presence nor the absence of the petitioner is marked on 1st Feb., 2011, 6th May and 25th May, 2011 and that there is over writing in the month of April dated 12 and 13 on Ex. RW-2/B. He also admitted that the workers from serial number 262 to 1255 of adult workers register are juniors to the petitioner.

13. I have closely scrutinized the entire evidence on record, and from the closer scrutiny thereof, it has become clear that the petitioner had worked with the respondent as helper from 27.7.2010 and vide letter dated 25.6.2011 Ex. RW-1/J, her services were terminated by the respondent by drawing a presumption that the petitioner had abandoned the employment of her own accord w.e.f. 25.6.2011. Now the question which arises for consideration before this Court is as to whether the petitioner had abandoned the job at her own accord. The case of the petitioner is that she had fallen ill on 4.6.2011 and she was admitted in the ESI Hospital and remained under treatment till 8.6.2011 and she was discharged from the hospital on 8.6.2011 *vide* discharge slip Ex. P-1. She also tendered in evidence the certificate of fitness Ex. P-2 and resumed her duties on 14.6.2011. This fact has also been admitted by RW-1 in his crossexamination that the petitioner had fallen ill and she remained admitted in the ESI hospital Nalagarh till 8.6.2011. Further the case of the petitioner is that she had again fallen ill and had taken the treatment from Civil Hospital Nalagarh since 16.6.2011 and she was advised rest till recovery from illness and after recovery she went to join her duties on 21.6.2011 but her entry was stopped at the gate. She had also tendered in evidence the OPD treatment slip Ex. P-4, issued by Civil Hospital Nalagarh. Therefore, it has become clear that the petitioner remained absent from duties on medical grounds and it cannot be said that she had abandoned the job at her own accord. Abandonment of service has not been defined in the Act. In a case titled as G.T Lad and others Vs. Chemicals and Fibers India Ltd. reported in AIR 1979 SC 582, the Hon'ble Supreme Court has held that to constitute abandonment, there must be total or complete giving up of duties so as to indicate an intention not to resume the same. The relevant portion of the aforesaid judgment is reproduced as under:

“From the connotations reproduced above it clearly follows that to constitute abandonment, there must be total or complete giving up of duties so as to indicate an intention not to resume the same.

In Buckingham Co. v. Venkatiah (1964) 4 SC R 265: (AIR 1964 SC 1272), it was observed by this Court that under common law an inference that an employee has abandoned or relinquished service is not easily drawn unless from the length of absence and from other surrounding circumstances an inference to that effect can be legitimately drawn and it can be assumed that the employee intended to abandon service. Abandonment or relinquishment of service is always a question of intention, and normally, such an intention cannot be attributed to an employee without adequate evidence in that behalf. Thus whether there has been a voluntary abandonment of service or not is a question of fact which has to be determined in the light of the surrounding circumstances of each case.”

It is also well settled that once, it is admitted that the workman had been in service of the management, the burden of proving that he himself abandoned the job lies on the management as has been held by the Hon'ble Supreme Court in M/s Nicks (India) Tools Vs. Ram Surat reported in 2004 (103) FLR 102. Thus, voluntarily abandonment of job can only be proved by the respondent/management by bringing on record evidence of absence of employee along-with his intention not to join back. However, in the present case, there is no iota of evidence on record which could go to show that the petitioner had left the job on her own as no material regarding abandonment of the job by the petitioner is placed on record by the respondent. Therefore, in the

absence of any material on record, inference cannot be drawn that the petitioner had voluntarily abandoned the job on her own, rather as observed earlier the absence of the petitioner was on medical grounds.

14. The case of the respondent is that the petitioner had not completed 240 days and in this respect the learned counsel for the respondent has relied upon the attendance detail of the petitioner Ex. RW-2/A and attendance register Ex. RW-2/B. The perusal of the attendance detail Ex. RW-2/A shows that the actual working days of the petitioner has been mentioned as 237 whereas the petitioner remained on leave for 8 days. The perusal of the attendance register Ex. RW-2/B shows that neither the presence nor the absence of the petitioner was marked for the period of seven days i.e on 16th October and 26th October, 22nd November and 26th November, 2010, 1st Feb., 2011, 6th May and 25th May 2011. This fact has also been admitted by RW-2 in his cross-examination. However, he has not given any explanation as to why neither the presence nor the absence of the petitioner was marked on the aforesaid days. Therefore, in the absence of any explanation on record, it cannot be said that the petitioner remained absent on the aforesaid days. Since, according to the respondent itself the actual working days of the petitioner were 237 days and neither the presence nor the absence of the petitioner was marked for the period of seven days and she remained on leave for 8 days, therefore, it cannot be said that the petitioner had not completed 240 days in the preceding twelve months prior to her termination as submitted by the learned counsel for the respondent.

15. It has also come on record that show cause notices were issued to the petitioner. As per show cause notice dated 18.6.2011 Ex. RW-1/A, the petitioner had misbehaved with her senior incharge and abused him with most vulgar, abusive and defamatory language and also that the petitioner remained absent from duty without prior permission resulting in willful insubordination and gross negligence of duties which is a major misconduct. As per show cause notice dated 23.6.2011 Ex. RW- 1/E, the petitioner remained absent from duties w.e.f. 15.6.2011 without prior permission from the concerned authority and she was advised to give explanation in writing within 48 hours. The petitioner had submitted explanation to both the show cause notices vide letter dated 29.6.2011 Ex. P-10. However, admittedly neither any chargesheet was issued to the petitioner nor any enquiry was held regarding her alleged misbehavior and absenteeism. It is a settled legal proposition that a workman against whom the misconduct is alleged cannot be dismissed unless a proper domestic enquiry is held against him in respect of the alleged misconduct. Even, if there is a proved misconduct against the workman, he cannot be discharged or dismissed from service unless he has been afforded reasonable opportunity of being heard before initiating any action against him by the employer/respondent. In the present case admittedly neither any chargesheet was issued to the petitioner nor any domestic enquiry was held before terminating her from service. In D. K Yadav Vs. M/s J.M A Industries Ltd. as reported in 1993-1 Supreme Court Service Law Judgments -221, the Hon'ble Apex Court has held as under:

“Reasonable opportunity be given to the employee concerned to put forth his case and proper enquiry be held before terminating his service.”

In a recent judgment of our Hon'ble High Court in ILR-XLV (VI) 938 titled as Gurcharan Singh Deceased through his LR's Vs. State of HP and ors. the workman was arrested and was convicted of the offence punishable under section 324 of the IPC and he was terminated without conducting any enquiry. The Hon'ble High Court has held that his termination could not have been ordered without conducting any enquiry as the workman had completed 240 days and was therefore entitled to the enquiry. The relevant portion of the aforesaid judgment reads as under:

“8. The moot question is whether termination can be ordered without conducting any inquiry? The answer is in the negative for the following reasons:

9.

10. While going through the impugned award and the writ petition, one comes to an inescapable conclusion that the termination of deceased Gurcharan Singh was made without following the mandate of law.

11.

12.

13. In the instant case, deceased Gurcharan Singh had completed 240 days in a calendar year, as discussed and held by the Labour Court, after scanning the evidence, the inquiry was required, not to speak of only issuance of the notice.

In the instant case, admittedly, the petitioner had worked continuously with the respondent from 27.7.2010 and her services had been terminated vide letter dated 25.6.2011 Ex. RW-1/J. Therefore, it was incumbent upon the respondent to have conducted the enquiry against the petitioner prior to her termination. However, the petitioner was never asked to answer any charges as no chargesheet was issued to her and no enquiry was held before terminating her services, on the basis of the alleged misconduct. Hence, the termination of the services of the petitioner without conducting any enquiry and without affording reasonable opportunity of being heard to the petitioner is in utter violation of the principles of natural justice.

16. As observed earlier, since the petitioner had completed 240 days in twelve calendar months preceding her termination, it was incumbent upon the respondent to have complied with the provisions of section 25-F of the Act. At this juncture, it would be relevant to re-produce section 25-F of the Act, which reads as under:

25-F. CONDITIONS PRECEDENT TO RETRENCHMENT OF WORKMEN.- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent of fifteen days' average pay (for every completed year of continuous service) or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate government (or such authority as may be specified by the appropriate Government by notification in the Official Gazette.)

17. The provisions of section 25-F of the Act lay down certain conditions precedent to the retrenchment of a workman (workmen) and requires the employer to comply with those conditions as per clauses (a) to (c) which are mandatory in nature. However, in the present case, the perusal of the record shows that the respondent has not complied with the conditions of section 25-F as enumerated in clause (b) & (c), precedent to the retrenchment of petitioner. In (2015) 4 SCC 544, Mackinnon Mackenzie and Company Ltd., Vs. Mackinnon employees Union, the Hon'ble Apex Court has held as under:

“34.The Industrial Court after examining the facts and evidence on record has rightly answered the question of breach of Section 25F clause (b) in the negative since no evidence has been produced by the respondent-Union to prove the same and further no calculation is brought to our notice as to the amount received by way of retrenchment compensation and also the actual amount sought to have been paid to the retrenched workmen. Further, with regard to the provision of Section 25F clause (c), the appellant-Company has not been able to produce cogent evidence that notice in the prescribed manner has been served by it to the State Government prior to the retrenchment of the concerned workmen. Therefore, we have to hold that the appellant-Company has not complied with the conditions precedent to retrenchment as per Section 25F clauses (a) and (c) of the I.D. Act which are mandatory in law.”

18. In the present case also no evidence has been produced by the respondent to prove that the petitioner has been paid retrenchment compensation equivalent to the fifteen days' average pay (for every completed year of continuous service) or any part thereof in excess of six months as per clause (b) of section 25-F. Further, with regard to the provisions of clause (c) of the section 25-F, the respondent has failed to produce any evidence which could go to show that the notice was served in the prescribed manner on the appropriate government. The learned counsel for the respondent contended that the services of the petitioner were terminated while giving her three months prior salary with all her financial dues. RW-1 deposed before the Court that the respondent sent full & final legal dues to the petitioner vide cheque mark RG. However, the petitioner has denied in her cross-examination that she had received the aforesaid cheque mark RG. No evidence has been led by the respondent to prove that the petitioner had actually received the aforesaid cheque mark RG. Moreover, admittedly, the services of the petitioner were terminated on 25.6.2011 and the cheque mark RG was issued to her after a period of more than one year i.e. on 21.12.2012 as such it cannot be said that the respondent had complied with the provisions of section 25-F of the Act. Therefore, it has become clear that the respondent has not complied with the conditions prescribed in section 25-F, which are mandatory in nature as such the termination of the services of the petitioner by the respondent is illegal and unjustified.

19. The AR for the petitioner also contended that the juniors to the petitioner are still working with the respondent whereas her services have been terminated without following the mandatory provisions of section 25-G of the Act. Even, RW-1 has admitted in cross-examination that on 14.6.2011 many juniors to the petitioner were working and RW-2 admitted in cross-examination that the workers from serial no. 262 to 1255 of adult workers register are juniors to the petitioner. Hence, from the aforesaid admission, it is clear that after the termination of the services of the petitioner, the respondent had retained the persons juniors to her in violation of section 25-G of the Act.

20. Therefore, in view of my forgoing discussion, I have no hesitation in holding that the services of the petitioner have been terminated illegally without conducting any enquiry and without following the provisions of Industrial Disputes Act, 1947. Hence, this issue is decided in favour of the petitioner and against the respondent.

Issue no.2.

21. Since, I have held under issue no.1 above that the termination of services of the petitioner by the respondent without complying with the provisions of the Act is improper, illegal and unjustified, hence, the petitioner is held entitled to reinstatement in service with seniority and continuity.

22. Now, the question which arises for consideration, before this Court is as to whether the petitioner is entitled to full back wages as contended by the AR for the petitioner. In (2009) 1 SCC 20, Kanpur Electricity Supply Company Limited Vs. Shamim Mirza, the Hon'ble Supreme Court

has held that once the order of termination of services of an employee is set-aside, ordinarily, the relief of reinstatement is available to him. However, the entitlement of an employee to get reinstated does not necessarily result in payment of full or partial back-wages, which is independent of reinstatement. It has further been held by the Hon'ble Supreme Court in 2010 (1) SLJ S.C 70, M/s Ritu Marbals Vs. Prabhakant Shukla that full back wages cannot be granted mechanically, upon an order of termination be declared illegal. It is further held that reinstatement must not be accompanied by payment of full back wages even for the period when the workman remained out of service and contributed little or nothing to the Industry.

23. Moreover, the petitioner was under an obligation to prove by leading cogent evidence that she was not gainfully employed after the termination of her services. The initial burden is on the workman/employee to show that he was not gainfully employed as held by the Hon'ble Apex Court in (2005) 2 Supreme Court Cases 363 titled as Kendriya Vidyalaya Sangathan and another Vs. S.C Sharma that:

“16.....When, the question of determining the entitlement of a person to back-wages is concerned, the employee has to show that he was not gainfully employed. The initial burden is on him. After and if he places materials in that regard, the employer can bring on record materials to rebut the claim.....”

24. In the present case, the petitioner has only stated in her affidavit Ex. PA that she is unemployed. Except for her bald statement, no other evidence has been led by the petitioner to prove that she was not gainfully employed. The petitioner has failed to discharge her burden by placing any concrete material on record and by leading any cogent and satisfactory evidence that she was not gainfully employed after her termination/disengagement. Therefore, in view of the entire evidence, on record, coupled with the rulings (supra), I have no hesitation in holding that the petitioner is not entitled to any back-wages. Accordingly, issue no.2 is partly decided in favour of the petitioner and against the respondent.

Issue no.3.

25. In support of this issue, no evidence has been led by the respondent which could go to show that as to how this petition is not maintainable especially when the same was filed by the petitioner pursuant to reference sent by the appropriate government to this Court for adjudication. Therefore, by holding it to be maintainable, this issue is decided in favour of the petitioner and against the respondent.

Relief.

As a sequel to my above discussion and findings on issues no.1 to 3, the claim of the petitioner succeeds and is hereby allowed with the result, the petitioner is ordered to be reinstated in service forth-with with seniority and continuity. However, the petitioner is not entitled to any back-wages and as such the reference is ordered to be answered in favour of the petitioner and against the respondent. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today on this 21st day of October, 2016.

(SUSHIL KUKREJA),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.
Camp at Nalagarh.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Dated, the 24th November, 2016

No. HHC/Admn. 3(236)/86-I.—06 days earned leave on and *w.e.f.* 28.11.2016 to 03.12.2016, with permission to affix Sundays falling on 27.11.2016 and 4.12.2016 is hereby sanctioned, in favour of Shri Durgesh Chand Sharma, Assistant Registrar of this Registry.

Certified that Shri Durgesh Chand Sharma, Assistant Registrar is likely to join the same post and at the same station from where he proceeds on leave after the expiry of the above leave period.

Certified that Shri Durgesh Chand Sharma would have continued to officiate the same post of Assistant Registrar, but for his proceeding on leave.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA- 171 001

NOTIFICATION

Dated, the 28th November, 2016

No. HHC/Admn.3 (331)/92-I.—02 days earned leave for 05.12.2016 & 06.12.2016, with permission to prefix Sunday falling on 04.12.2016, is hereby sanctioned, infavour of Shri Davinder Chopra, Additional Registrar of this Registry.

Certified that Shri Davinder Chopra is likely to join the same post and at the same station from where he proceeds on leave after the expiry of the above leave period.

Certified that Shri Davinder Chopra would have continued to officiate the same post of Additional Registrar but for his proceeding on leave.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA- 171 001

NOTIFICATION

Dated, the 28th November, 2016

No. HHC/Admn. 3(242)/86-I.—12 days earned leave on and *w.e.f.* 08.12.2016 to 19.12.2016 is hereby sanctioned, in favour of Shri. O.P. Sharma, Court Master of this Registry.

Certified that Shri. O.P.Sharma is likely to join the same post and at the same station from where he proceeds on leave after the expiry of the above leave period.

Certified that Shri. O.P.Sharma would have continued to officiate the same post of Court Master but for his proceeding on leave.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA- 171 001

NOTIFICATION

Dated, the 28th November, 2016

No. HHC/Admn.3(399)/95-I.—06 days earned leave on and *w.e.f.* 28.11.2016 to 03.12.2016 with permission to affix Sundays falling on 27.11.2016 and 04.12.2016 is hereby sanctioned in favour of Shri Beer Singh Sharma, Secretary of this Registry.

Certified that Shri Beer Singh Sharma is likely to join the same post and at the same station from where he proceeds on leave after the expiry of the above leave period.

Certified that Shri Beer Singh Sharma would have continued to officiate the same post of Secretary but for his proceeding on leave.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA - 171 001

NOTIFICATION

Shimla, the 29th November, 2016

No. HHC/Admn.16 (15)74-V.—Hon'ble the Chief Justice has been pleased to cancel the appointment of Smt. Nisha , Advocate as Oath Commissioner, Kasauli, Distt. Solan, H.P. appointed vide this Registry Notification No. HHC/Admn.16(15)74-V-16401-08-68, dated 9.10.6.2015 with immediate effect.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001**NOTIFICATION***Shimla, the 28th November, 2016*

No. HHC/GAZ/14-361/2015.—Hon'ble the Chief Justice has been pleased to grant ex-post facto sanction of 02 days commuted leave for 08.11.2016 and 09.11.2016 in favour of Ms. Sonal Thama, Civil Judge (Junior Division)-JMIC (VIII), Shimla, H.P.

Certified that Ms. Sonal Thama has joined the same post and at the same station from where she proceeded on leave, after expiry of the above period of leave.

Also certified that Ms. Sonal Thama would have continued to hold the post of Civil Judge (Junior Division)-cum-JMIC(VIII), Shimla, H.P., but for her proceeding on leave for the above period.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171001**NOTIFICATION***Shimla, the 1st December, 2016*

No. HHC/Admn. 6 (23)/74-XV.—Hon'ble the Chief Justice in exercise of the powers vested in him under Rule 2(32) of Chapter 1 of H.P. Financial Rules, 2009 has been pleased to declare Civil Judge (Senior Division)-cum-Chief Judicial Magistrate, Chamba, H.P. as Drawing and Disbursing Officer in respect of the Court of Civil Judge (Junior Division)-cum-JMIC, Chamba, H.P. and also the Controlling Officer for the purpose of salary, T.A. etc. in respect of the official of aforesaid court under Major head "2014 Administration of Justice" *w.e.f.* 17.11.2016 to 11.12.2016.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171001**NOTIFICATION***Shimla, the 2nd December, 2016*

No. HHC/Admn. 6 (23)/74-XV.—Hon'ble the Chief Justice in exercise of the powers vested in him under Rule 2(32) of Chapter 1 of H.P. Financial Rules, 2009 has been pleased to declare Additional District and Sessions Judge-II, Una, H.P. as Drawing and Disbursing Officer in respect of the Court of Additional District and Sessions Judge-1, Una, H.P. and also the Controlling

Officer for the purpose of salary, T.A. etc. in respect of the establishment attached aforesaid court under Major head "2014 Administration of Justice" with immediate effect till the posting of new Presiding officer in that Court.

By order,
Sd/-
Registrar General.

ब अदालत श्री बच्चन सिंह (हि0 प्र0 से0), उप-मण्डल दण्डाधिकारी, चम्बा, जिला चम्बा, हि0 प्र0

अनिल शर्मा पुत्र प्रेम कुमार शर्मा, गांव वियाडा, तहसील पालमपुर, जिला कांगड़ा (हि0 प्र0)

बनाम

आम जनता एवं कार्यकारी अधिकारी, नगर परिषद् चम्बा

विषय.—नाम दुरुस्ती सम्बन्धी।

इस अदालत में अनिल शर्मा पुत्र प्रेम कुमार शर्मा, गांव वियाडा, तहसील पालमपुर, जिला कांगड़ा (हि0 प्र0) ने एक दरखास्त देकर अनुरोध किया है कि उसके पुत्र का सही नाम अवनीश शर्मा है परन्तु नगर परिषद् चम्बा के रिकार्ड में आकर्ष शर्मा दर्ज है जिसे वह दुरुस्त करवाना चाहता है।

अतः सर्वसाधारण जनता को इशतहार द्वारा सूचित किया जाता है कि अनिल शर्मा पुत्र प्रेम कुमार शर्मा, गांव वियाडा, तहसील पालमपुर, जिला कांगड़ा (हि0 प्र0) के पुत्र के नाम को नगर परिषद् चम्बा के अभिलेख में दुरुस्ती दर्ज करने पर अगर किसी को किसी भी प्रकार की कोई आपत्ति है तो वह असागतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर—भीतर सुबह 10 बजे से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी के पुत्र के नाम दुरुस्ती करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु नगर परिषद् चम्बा को पारित कर दिए जायेंगे।

आज दिनांक 17-11-2016 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुये।

मोहर।

हस्ताक्षरित /—
उप-मण्डल दण्डाधिकारी,
चम्बा, जिला चम्बा (हि0 प्र0)।

ब अदालत श्री बच्चन सिंह (हि0 प्र0 से0), उप-मण्डल दण्डाधिकारी, चम्बा, जिला चम्बा, हि0 प्र0

देवो उर्फ देवी सिंह पुत्र मचलू, गांव कलेरा, डाकघर गैहरा, तहसील चम्बा

बनाम

आम जनता एवं ग्राम सभा, ग्राम पंचायत गैहरा, विकास खण्ड मैहला

विषय.—नाम दुरुस्ती सम्बन्धी।

इस अदालत में देवो उर्फ देवी सिंह पुत्र मचलू, गांव कलेरा, डाकघर गैहरा, तहसील चम्बा ने एक दरखास्त देकर अनुरोध किया है कि उसका सही नाम देवो उर्फ देवी सिंह है परन्तु उसका नाम ग्राम पंचायत पियूहरा में देवो दर्ज है जो कि गलत है। प्रार्थी ने ग्राम पंचायत गैहरा के अभिलेख में देवो के बजाये देवो उर्फ देवी सिंह दर्ज करने का अनुरोध किया है।

अतः सर्वसाधारण जनता को इशतहार द्वारा सूचित किया जाता है कि देवो उर्फ देवी सिंह पुत्र मचलू, गांव कलेरा, डाकघर गैहरा, तहसील चम्बा के नाम दुरुस्ती बारे अगर किसी को किसी भी प्रकार की कोई आपत्ति है तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10 बजे से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी के नाम को दुरुस्त करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु ग्राम पंचायत गैहरा को पारित कर दिए जायेंगे।

आज दिनांक 15-11-2016 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुये।

मोहर।

हस्ताक्षरित/—
उप-मण्डल दण्डाधिकारी,
चम्बा, जिला चम्बा (हि0 प्र0)।

ब अदालत श्री बच्चन सिंह (हि0 प्र0 से0), उप-मण्डल दण्डाधिकारी, चम्बा, जिला चम्बा, हि0 प्र0

प्रायम देवी पत्नी जर्म सिंह, गांव भकरेड़ा, परगना राजनगर, तहसील चम्बा

बनाम

आम जनता एवं ग्राम सभा, ग्राम पंचायत सिढ़कुंड, विकास खण्ड चम्बा

विषय.—नाम दुरुस्ती सम्बन्धी।

इस अदालत में प्रायम देवी पत्नी जर्म सिंह, गांव भकरेड़ा, परगना राजनगर, तहसील चम्बा ने एक दरखास्त देकर अनुरोध किया है कि उसका सही नाम प्रायम देवी है परन्तु उसका नाम ग्राम पंचायत सिढ़कुंड में प्रेम देवी दर्ज है जो कि गलत है। प्रार्थिन ने ग्राम पंचायत सिढ़कुंड के अभिलेख में प्रेम देवी के बजाये प्रायम देवी नाम दर्ज करने का अनुरोध किया है।

अतः सर्वसाधारण जनता को इशतहार द्वारा सूचित किया जाता है कि प्रायम देवी पत्नी जर्म सिंह, गांव भकरेड़ा, परगना राजनगर, तहसील चम्बा के नाम दुरुस्ती बारा अगर किसी को किसी भी प्रकार की कोई आपत्ति है तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10 बजे से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिन के नाम को दुरुस्त करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु ग्राम पंचायत सिढ़कुंड को पारित कर दिए जायेंगे।

आज दिनांक 15-11-2016 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुये।

मोहर।

हस्ताक्षरित/—
उप-मण्डल दण्डाधिकारी,
चम्बा, जिला चम्बा (हि0 प्र0)।

ब अदालत श्री बच्चन सिंह (हि0 प्र0 से0), उप-मण्डल दण्डाधिकारी, चम्बा, जिला चम्बा, हि0 प्र0

किशन सिंह पुत्र श्री साहब सिंह, निवासी गांव कुपाहडा, डाकघर मसरुड, तहसील चम्बा

बनाम

विषय.—जन्म तिथि पंजीकरण सम्बन्धी।

इस अदालत में किशन सिंह पुत्र श्री साहब सिंह, निवासी गांव कुपाहडा, डाकघर मसरुड, तहसील चम्बा ने एक दरखास्त दी है कि उसके पुत्र नामक अमित सिंह की जन्म तिथि 20-4-1999 है लेकिन जन्म से सम्बन्धित घटना ग्राम पंचायत मसरुड, विकास खण्ड चम्बा में दर्ज न है।

अतः सर्वसाधारण जनता को इशतहार द्वारा सूचित किया जाता है कि किशन सिंह पुत्र श्री साहब सिंह, निवासी गांव कुपाहडा, डाकघर मसरुड, तहसील चम्बा के पुत्र की जन्म तिथि को ग्राम पंचायत मसरुड, विकास खण्ड चम्बा के जन्म अभिलेख में दर्ज करने पर अगर किसी को किसी भी प्रकार की कोई आपत्ति है तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10 बजे से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी के पुत्र की जन्म तिथि को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु ग्राम पंचायत मसरुड, विकास खण्ड चम्बा को पारित कर दिए जायेंगे।

आज दिनांक 15-11-2016 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुये।

मोहर।

हस्ताक्षरित /—
उप-मण्डल दण्डाधिकारी,
चम्बा, जिला चम्बा (हि0 प्र0)।

ब अदालत श्री बच्चन सिंह (हि0 प्र0 से0), उप-मण्डल दण्डाधिकारी, चम्बा, जिला चम्बा, हि0 प्र0

देव राज पुत्र पुन्नू राम, निवासी कनोग, डाकघर मैहला, तहसील व जिला चम्बा

बनाम

आम जनता एवं ग्राम सभा, ग्राम पंचायत चड़ी, विकास खण्ड मैहला

विषय.—नाम दुरुस्ती सम्बन्धी।

इस अदालत में देव राज पुत्र पुन्नू राम, निवासी कनोग, डाकघर मैहला, तहसील व जिला चम्बा ने एक दरखास्त देकर अनुरोध किया है कि उसका सही नाम देव राज है परन्तु उसका नाम ग्राम पंचायत चड़ी में जय राम दर्ज है जोकि गलत दर्ज है प्रार्थी ने ग्राम पंचायत चड़ी के अभिलेख में जय राम के बजाये देव राज नाम दर्ज करने का अनुरोध किया है।

अतः सर्वसाधारण जनता को इशतहार द्वारा सूचित किया जाता है कि देव राज पुत्र पुन्नू राम, निवासी कनोग, डाकघर मैहला, तहसील व जिला चम्बा के नाम की दुरुस्ती बारा अगर किसी को किसी भी प्रकार की कोई आपत्ति है तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10 बजे से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी के नाम को दुरुस्त करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु ग्राम पंचायत चड़ी को पारित कर दिए जायेंगे।

आज दिनांक 15-11-2016 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुये।

मोहर।

हस्ताक्षरित /—
उप-मण्डल दण्डाधिकारी,
चम्बा, जिला चम्बा (हि0 प्र0)।

ब अदालत श्री बच्चन सिंह (हि0 प्र0 से0), उप-मण्डल दण्डाधिकारी, चम्बा, जिला चम्बा, हि0 प्र0

प्रेम लाल पुत्र हंस राज, निवासी ज्योति, डाकघर कुनेड, तहसील व जिला चम्बा

बनाम

आम जनता एवं ग्राम सभा, ग्राम पंचायत कुनेड, विकास खण्ड मैहला

विषय.—मृत्यु सम्बन्धित तिथि पंजीकरण सम्बन्धी।

इस अदालत में प्रेम लाल पुत्र हंस राज, निवासी ज्योति, डाकघर कुनेड, तहसील व जिला चम्बा ने एक दरखास्त देकर अनुरोध किया है कि उनकी माता नामक नैनो देवी की मृत्यु तिथि 17-4-2004 है लेकिन मृत्यु से सम्बन्धित घटना ग्राम पंचायत कुनेड, विकास खण्ड मैहला, जिला चम्बा में दर्ज न है।

अतः सर्वसाधारण जनता को इशतहार द्वारा सूचित किया जाता है कि प्रेम लाल पुत्र हंस राज, निवासी ज्योति, डाकघर कुनेड, तहसील व जिला चम्बा की माता की मृत्यु तिथि को ग्राम पंचायत कुनेड, विकास खण्ड मैहला के मृत्यु अभिलेख में दर्ज करने पर अगर किसी को किसी भी प्रकार की कोई आपत्ति है तो वह असातन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10 बजे से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी की माता की मृत्यु तिथि को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु ग्राम पंचायत कुनेड, विकास खण्ड मैहला को पारित कर दिए जायेंगे।

आज दिनांक 15-11-2016 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुये।

मोहर।

हस्ताक्षरित/—
उप-मण्डल दण्डाधिकारी,
चम्बा, जिला चम्बा (हि0 प्र0)।

ब अदालत श्री बच्चन सिंह (हि0 प्र0 से0), उप-मण्डल दण्डाधिकारी, चम्बा, जिला चम्बा, हि0 प्र0

अयूब पुत्र श्री नेक मुहम्मद, गांव रुकडेड, डाकघर जडेरा, तहसील चम्बा

बनाम

आम जनता एवं ग्राम सभा, ग्राम पंचायत जडेरा, विकास खण्ड चम्बा

विषय.—जन्म तिथि पंजीकरण सम्बन्धी।

इस अदालत में अयूब पुत्र श्री नेक मुहम्मद, गांव रुकडेड, डाकघर जडेरा, तहसील चम्बा ने एक दरखास्त दी है कि उसके बच्चों क्रमशः शफी जन्म तिथि 1-3-2008 व मुस्ताक जन्म तिथि 7-1-2010 है लेकिन जन्म से सम्बन्धित घटना ग्राम पंचायत जडेरा, विकास खण्ड चम्बा में दर्ज न है।

अतः सर्वसाधारण जनता को इशतहार द्वारा सूचित किया जाता है कि अयूब पुत्र श्री नेक मुहम्मद, गांव रुकडेड, डाकघर जडेरा, तहसील चम्बा के बच्चों की जन्म तिथि को ग्राम पंचायत जडेरा, विकास खण्ड चम्बा के जन्म अभिलेख में दर्ज करने पर अगर किसी को किसी भी प्रकार की कोई आपत्ति है तो वह असातन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10 बजे से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी के बच्चों की जन्म तिथि को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु ग्राम पंचायत जडेरा, विकास खण्ड चम्बा को पारित कर दिए जायेंगे।

आज दिनांक 15-11-2016 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुये।

मोहर।

हस्ताक्षरित /—
उप-मण्डल दण्डाधिकारी,
चम्बा, जिला चम्बा (हि0 प्र0)।

ब अदालत श्री बच्चन सिंह (हि0 प्र0 से0), उप-मण्डल दण्डाधिकारी, चम्बा, जिला चम्बा, हि0 प्र0

भाना राम पुत्र फिन्फू राम, गांव धांडल, डाकघर साच, तहसील चम्बा

बनाम

आम जनता एवं ग्राम पंचायत ओडा, विकास खण्ड चम्बा

विषय.—जन्म तिथि दुरुस्ती सम्बन्धी।

इस अदालत में भाना राम पुत्र फिन्फू राम, गांव धांडल, डाकघर साच, तहसील चम्बा ने एक दरखास्त देकर अनुरोध किया है कि उसकी जन्म तिथि 3-3-1966 है लेकिन जन्म से सम्बन्धित घटना ग्राम पंचायत ओडा, विकास खण्ड चम्बा में दर्ज न है।

अतः सर्वसाधारण जनता को इश्तहार द्वारा सूचित किया जाता है कि भाना राम पुत्र फिन्फू राम, गांव धांडल, डाकघर साच, तहसील चम्बा की जन्म तिथि को ग्राम पंचायत ओडा, विकास खण्ड चम्बा के जन्म अभिलेख में दर्ज करने पर अगर किसी को किसी भी प्रकार की कोई आपत्ति है तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इश्तहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10 बजे से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी की जन्म तिथि को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु ग्राम पंचायत ओडा, विकास खण्ड चम्बा को पारित कर दिए जायेंगे।

आज दिनांक 15-11-2016 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुये।

मोहर।

हस्ताक्षरित /—
उप-मण्डल दण्डाधिकारी,
चम्बा, जिला चम्बा (हि0 प्र0)।

ब अदालत श्री बच्चन सिंह (हि0 प्र0 से0), उप-मण्डल दण्डाधिकारी, चम्बा, जिला चम्बा, हि0 प्र0

रजिंदर सिंह पुत्र चैनो, गांव थल्ला, डाकघर रजेरा, तहसील चम्बा

बनाम

आम जनता एवं ग्राम पंचायत रजेरा, विकास खण्ड मैहला

विषय.—जन्म तिथि दुरुस्ती सम्बन्धी।

इस अदालत में रजिंदर सिंह पुत्र चैनो, गांव थल्ला, डाकघर रजेरा, तहसील चम्बा ने एक दरखास्त देकर अनुरोध किया है कि उसकी जन्म तिथि 19-10-1995 है लेकिन जन्म से सम्बन्धित घटना ग्राम पंचायत रजेरा, विकास खण्ड मैहला में दर्ज न है।

अतः सर्वसाधारण जनता को इशतहार द्वारा सूचित किया जाता है कि रजिंदर सिंह पुत्र चैनो, गांव थल्ला, डाकघर रजेरा, तहसील चम्बा की जन्म तिथि को ग्राम पंचायत रजेरा, विकास खण्ड मैहला के जन्म अभिलेख में दर्ज करने पर अगर किसी को किसी भी प्रकार की कोई आपत्ति है तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10 बजे से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी की जन्म तिथि को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु ग्राम पंचायत रजेरा, विकास खण्ड मैहला को पारित कर दिए जायेंगे।

आज दिनांक 15-11-2016 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुये।

मोहर।

हस्ताक्षरित/—
उप-मण्डल दण्डाधिकारी,
चम्बा, जिला चम्बा (हि0 प्र0)।

ब अदालत श्री बच्चन सिंह (हि0 प्र0 से0), उप-मण्डल दण्डाधिकारी, चम्बा, जिला चम्बा, हि0 प्र0

विक्रम ठाकुर पुत्र बहादुर सिंह, गांव बही बाग, डाकघर कोटी, तहसील चम्बा

बनाम

आम जनता एवं ग्राम पंचायत प्राहनवी, विकास खण्ड चम्बा

विषय.—जन्म तिथि दुरुस्ती सम्बन्धी।

इस अदालत में विक्रम ठाकुर पुत्र बहादुर सिंह, गांव बही बाग, डाकघर कोटी, तहसील चम्बा ने एक दरखास्त देकर अनुरोध किया है कि उसकी जन्म तिथि 3-6-1989 है लेकिन जन्म से सम्बन्धित घटना ग्राम पंचायत प्राहनवी, विकास खण्ड चम्बा में दर्ज न है।

अतः सर्वसाधारण जनता को इशतहार द्वारा सूचित किया जाता है कि विक्रम ठाकुर पुत्र बहादुर सिंह, गांव बही बाग, डाकघर कोटी, तहसील चम्बा की जन्म तिथि को ग्राम पंचायत प्राहनवी, विकास खण्ड चम्बा के जन्म अभिलेख में दर्ज करने पर अगर किसी को किसी भी प्रकार की कोई आपत्ति है तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10 बजे से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी की जन्म तिथि को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु ग्राम पंचायत प्राहनवी, विकास खण्ड चम्बा को पारित कर दिए जायेंगे।

आज दिनांक 15-11-2016 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुये।

मोहर।

हस्ताक्षरित/—
उप-मण्डल दण्डाधिकारी,
चम्बा, जिला चम्बा (हि0 प्र0)।

ब अदालत श्री बच्चन सिंह (हि0 प्र0 से0), उप-मण्डल दण्डाधिकारी, चम्बा, जिला चम्बा, हि0 प्र0

हरप्रीत कौर पत्नी जितेन्द्र सिंह, निवासी मुहल्ला हरदासपुर, तहसील चम्बा

बनाम

आम जनता एवं नगर परिषद् चम्बा

विषय.—नाम दुरुस्ती सम्बन्धी।

इस अदालत में हरप्रीत कौर पत्नी जितेन्द्र सिंह, निवासी मुहल्ला हरदासपुर, तहसील चम्बा ने एक दरखास्त देकर अनुरोध किया है कि उसकी पुत्री का सही नाम माहिरा सिंह व उसका नाम हरप्रीत कौर है परन्तु उसकी पुत्री के जन्म प्रमाण-पत्र पर पुत्री का नाम मालविका व उसका नाम सपना गलत दर्ज है जिसे वह अपनी पुत्री का नाम माहिरा सिंह व अपना नाम हरप्रीत कौर दुरुस्त करवाना चाहती है।

अतः सर्वसाधारण जनता को इशतहार द्वारा सूचित किया जाता है कि हरप्रीत कौर पत्नी जितेन्द्र सिंह, निवासी मुहल्ला हरदासपुर, तहसील चम्बा की पुत्र के जन्म प्रमाण पत्र में उसका व उसकी पुत्री के नाम का नगर परिषद् चम्बा के अभिलेख में दुरुस्त दर्ज करने पर अगर किसी को किसी भी प्रकार की कोई आपत्ति है तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10 बजे से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिन की पुत्री के जन्म प्रमाण पत्र में प्रार्थिन व उसकी पुत्री का नाम दुरुस्त करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु नगर परिषद् चम्बा को पारित कर दिए जायेंगे।

आज दिनांक 15-11-2016 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुये।

मोहर।

हस्ताक्षरित /—
उप-मण्डल दण्डाधिकारी,
चम्बा, जिला चम्बा (हि0 प्र0)।

ब अदालत श्री बच्चन सिंह (हि0 प्र0 से0), उप-मण्डल दण्डाधिकारी, चम्बा, जिला चम्बा, हि0 प्र0

नीलम शर्मा पत्नी जितेन्द्र प्रसाद शर्मा, निवासी मुहल्ला खरुड़ा, तहसील चम्बा

बनाम

आम जनता एवं नगर परिषद् चम्बा

विषय.—जन्म तिथि पंजीकरण सम्बन्धी।

इस अदालत में नीलम शर्मा पत्नी जितेन्द्र प्रसाद शर्मा, निवासी मुहल्ला खरुड़ा, तहसील चम्बा ने एक दरखास्त देकर अनुरोध किया है कि उसके पुत्र नामक अंकित शर्मा की जन्म तिथि 1-9-1988 है लेकिन जन्म से सम्बन्धित घटना नगर परिषद् चम्बा में दर्ज न है।

अतः सर्वसाधारण जनता को इशतहार द्वारा सूचित किया जाता है कि नीलम शर्मा पत्नी जितेन्द्र प्रसाद शर्मा, निवासी मुहल्ला खरुड़ा, तहसील चम्बा के पुत्र की जन्म तिथि को नगर परिषद् चम्बा के जन्म अभिलेख में दर्ज करने पर अगर किसी को किसी भी प्रकार की कोई आपत्ति है तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10 बजे से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिन के पुत्र की जन्म तिथि को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु नगर परिषद् चम्बा को पारित कर दिए जायेंगे।

आज दिनांक 15-11-2016 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुये।

मोहर।

हस्ताक्षरित /—
उप-मण्डल दण्डाधिकारी,
चम्बा, जिला चम्बा (हि0 प्र0)।

ब अदालत श्री बच्चन सिंह (हि0 प्र0 से0), उप-मण्डल दण्डाधिकारी, चम्बा, जिला चम्बा, हि0 प्र0

गोपाल सिंह पुत्र जैसी, गांव मुकलैनी, डाकघर भडियाकोठी, तहसील व जिला चम्बा

बनाम

आम जनता एवं ग्राम सभा, ग्राम पंचायत भडिया, विकास खण्ड चम्बा

विषय.—नाम दुरुस्ती सम्बन्धी।

इस अदालत में गोपाल सिंह पुत्र जैसी, गांव मुकलैनी, डाकघर भडियाकोठी, तहसील व जिला चम्बा ने एक दरखास्त दे कर अनुरोध किया है कि उसका सही नाम गोपाल सिंह है परन्तु उसका नाम ग्राम पंचायत भडिया, विकास खण्ड चम्बा में गुलाब सिंह दर्ज है जोकि गलत दर्ज है प्रार्थी ने ग्राम पंचायत भडिया, विकास खण्ड चम्बा के अभिलेख में गुलाब सिंह के बजाये गोपाल सिंह नाम दर्ज करने का अनुरोध किया है।

अतः सर्वसाधारण जनता को इशतहार द्वारा सूचित किया जाता है कि गोपाल सिंह पुत्र जैसी, गांव मुकलैनी, डाकघर भडियाकोठी, तहसील व जिला चम्बा के नाम की दुरुस्ती बारा अगर किसी को किसी भी प्रकार की कोई आपत्ति है तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10 बजे से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी के नाम को दुरुस्त करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु ग्राम पंचायत भडिया, विकास खण्ड चम्बा को पारित कर दिए जायेंगे।

आज दिनांक 15-11-2016 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुये।

मोहर।

हस्ताक्षरित /—
उप-मण्डल दण्डाधिकारी,
चम्बा, जिला चम्बा (हि0 प्र0)।

ब अदालत श्री बच्चन सिंह (हि0 प्र0 से0), उप-मण्डल दण्डाधिकारी, चम्बा, जिला चम्बा, हि0 प्र0

अश्वनी कुमार पुत्र संत राम, गांव हरोठा, डाकघर चनेड, तहसील चम्बा

बनाम

आम जनता एवं ग्राम सभा, ग्राम पंचायत भनोता, विकास खण्ड चम्बा

विषय.—नाम दुरुस्ती सम्बन्धी।

इस अदालत में अश्वनी कुमार पुत्र संत राम, गांव हरोठा, डाकघर चनेड, तहसील चम्बा ने एक दरखास्त देकर अनुरोध किया है कि उसके पुत्र का सही नाम शुभम शर्मा है परन्तु उसका नाम ग्राम पंचायत भनोता में शुभम शर्मा दर्ज है जोकि गलत दर्ज है प्रार्थी ने ग्राम पंचायत भनोता के अभिलेख में शुभम शर्मा के बजाये शुभम शर्मा नाम दर्ज करने का अनुरोध किया है।

अतः सर्वसाधारण जनता को इशतहार द्वारा सूचित किया जाता है कि अश्वनी कुमार पुत्र संत राम, गांव हरोठा, डाकघर चनेड, तहसील चम्बा के पुत्र के नाम की दुरुस्ती बारा अगर किसी को किसी भी प्रकार की कोई आपत्ति है तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10 बजे से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी के पुत्र के नाम को दुरुस्त करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु ग्राम पंचायत भनोता को पारित कर दिए जायेंगे।

आज दिनांक 15-11-2016 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुये।

मोहर।

हस्ताक्षरित /—
उप-मण्डल दण्डाधिकारी,
चम्बा, जिला चम्बा (हि0 प्र0)।

ब अदालत उप-मण्डल दण्डाधिकारी, चम्बा, जिला चम्बा, हि0 प्र0

जमीत सिंह पुत्र ज्ञान चन्द, निवासी गांव कुरांह, डाकघर मैहला, तहसील व जिला चम्बा, हि0 प्र0

बनाम

आम जनता

विषय.—बच्चों के जन्म पंजीकरण के सन्दर्भ में।

श्री जमीत सिंह पुत्र ज्ञान चन्द, निवासी गांव कुरांह, डाकघर मैहला, तहसील व जिला चम्बा ने इस अदालत में प्रार्थना-पत्र गुजार कर निवेदन किया है कि उसके निम्नलिखित बच्चों का नाम पंजीकरण ग्राम पंचायत अभिलेख गागला के अभिलेख में दर्ज नहीं हुआ है, जिसके पंजीकरण हेतु प्रार्थना की है:—

क्रम संख्या	नाम	पिता का नाम	माता का नाम	जन्म तिथि
1.	बबीता देवी	जमीत सिंह	पुष्पा देवी	5-8-1998
2.	राहुल	जमीत सिंह	पुष्पा देवी	26-8-2001
3.	राखी	जमीत सिंह	पुष्पा देवी	30-9-2003

इस इश्तहार के माध्यम से सर्वसाधारण जनता को सूचित किया जाता है कि अगर किसी व्यक्ति को उपरोक्त बच्चों के जन्म पंजीकरण बारे किसी भी प्रकार का उजर या एतराज हो तो वह इस अदालत में इश्तहार प्रकाशन के एक माह पश्चात् असालतन या वकालतन हाजिर आ कर पैरवी मुकद्दमा करें। इसके पश्चात् किसी भी प्रकार का उजर व एतराज काबले समायत न होगा तथा उपरोक्त बच्चों के जन्म पंजीकरण बारे आदेश अदालत से जारी कर दिये जाएंगे।

आज दिनांक 17-10-2016 को मेरे हस्ताक्षर व मोहर सहित अदालत से जारी हुये।

मोहर।

हस्ताक्षरित /—
उप-मण्डल दण्डाधिकारी,
चम्बा, जिला चम्बा (हि0 प्र0)।

ब अदालत श्री कर्म सिंह, नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी, कुल्लू, जिला कुल्लू, हि0 प्र0

केस नम्बर : 67/B.E./T/2016

तारीख पेशी : 15-12-2016

बनाम

सर्वसाधारण एवं आम जनता

विषय.—प्रार्थना-पत्र अधिनियम धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री धर्म पाल पुत्र श्री काली राम, निवासी सियुनीपुल, डा0 रायसन, तहसील व जिला कुल्लू, हि0 प्र0 ने इस कार्यालय में प्रार्थना-पत्र दिया है कि उसके लड़के सुनील कुमार का जन्म दिनांक 20-12-1998 को हुआ है परन्तु उसकी जन्म तिथि का इन्द्राज किसी कारणवश ग्राम पंचायत शिरढ़ के अभिलेख में दर्ज न हुआ है।

अतः इस इश्तहार हजा द्वारा सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को सुनील कुमार की जन्म तिथि दर्ज करवाने बारे कोई आपत्ति हो तो वह दिनांक 15-12-2016 को सुबह 10.00 बजे या इससे पूर्व असालतन व वकालतन हाजिर अदालत आकर अपना उजर व एतराज दर्ज करवा सकता है इसके उपरान्त कोई भी उजर/एतराज समायत न होगा तथा नियमानुसार जन्म तिथि दर्ज करवाने के आदेश सम्बन्धित पंचायत को पारित कर दिए जाएंगे।

आज दिनांक 16-11-2016 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

कर्म सिंह,
नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी,
कुल्लू जिला कुल्लू (हि0 प्र0)।

ब अदालत श्री कर्म सिंह, नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी, कुल्लू, जिला कुल्लू, हि0 प्र0

केस नम्बर : 68/B.E./T/2016

तारीख पेशी : 15-12-2016

बनाम

सर्वसाधारण एवं आम जनता

विषय.—प्रार्थना-पत्र अधिनियम धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री धर्म पाल पुत्र श्री काली राम, निवासी सियुनीपुल, डा0 रायसन, तहसील व जिला कुल्लू, हि0 प्र0 ने इस कार्यालय में प्रार्थना-पत्र दिया है कि उसके लड़के शुभम का जन्म दिनांक 23-01-1998 को हुआ है परन्तु उसकी जन्म तिथि का इन्द्राज किसी कारणवश ग्राम पंचायत शिरढ़ के अभिलेख में दर्ज न हुआ है।

अतः इस इश्तहार हजा द्वारा सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को शुभम की जन्म तिथि दर्ज करवाने बारे कोई आपत्ति हो तो वह दिनांक 15-12-2016 को सुबह 10.00 बजे या इससे पूर्व असालतन व वकालतन हाजिर अदालत आकर अपना उजर व एतराज दर्ज करवा सकता है इसके उपरान्त कोई भी उजर/एतराज समायत न होगा तथा नियमानुसार जन्म तिथि दर्ज करवाने के आदेश सम्बन्धित पंचायत को पारित कर दिए जाएंगे।

आज दिनांक 16-11-2016 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

कर्म सिंह,
नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी,
कुल्लू जिला कुल्लू (हि0 प्र0)।

ब अदालत श्री वेद प्रकाश शर्मा, तहसीलदार एवं कार्यकारी दण्डाधिकारी, कुल्लू, जिला कुल्लू, हि0 प्र0

केस नम्बर : 59/M.E./T/2016

तारीख पेशी : 22-12-2016

1. श्री चन्दे राम पुत्र श्री आत्मा राम, गांव वैन्ची, डा0 रायसन, तहसील व जिला कुल्लू, हि0 प्र0

2. श्रीमती लाजवन्ती पुत्री श्री मान सिंह, निवासी गांव व डा0 अरछण्डी, तहसील व जिला कुल्लू, हि0 प्र0 प्रार्थीगण।

बनाम

आम जनता

प्रतिवादीगण।

विषय.—प्रार्थना-पत्र जेर धारा 5(4) हि0 प्र0 रजिस्ट्रीकरण नियम, 2004 विवाह पंजीकरण बारे।

उपरोक्त मामला में प्रार्थीगण उपरोक्त ने दिनांक 18-11-2016 को इस अदालत में प्रार्थना-पत्र पेश किया है कि उन्होंने दिनांक 12-08-2014 को हिन्दू रीति-रिवाज के अनुसार स्थान वैन्ची में शादी कर ली है और तब से पति-पत्नी के रूप में रहते चले आ रहे हैं। परन्तु प्रार्थीगण द्वारा अपनी शादी का इन्द्राज सम्बन्धित पंचायत में नहीं करवाया है।

अतः सर्वसाधारण को व आम जनता को इस इशतहार द्वारा सूचित किया जाता है कि किसी भी व्यक्ति को उपरोक्त प्रार्थीगणों की शादी को सम्बन्धित पंचायत के अभिलेख में दर्ज करने बारे कोई उजर व एतराज हो तो वह दिनांक 22-12-2016 को सुबह 10.00 बजे या इससे पूर्व असालतन या वकालतन हाजिर अदालत पेश होकर अपना उजर व एतराज पेश कर सकता है। इसके उपरान्त कोई भी उजर व एतराज प्राप्त न होने की सूरत में नियमानुसार शादी दर्ज करने के आदेश पारित कर दिए जाएंगे।

आज दिनांक 21-11-2016 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

वेद प्रकाश शर्मा,
तहसीलदार एवं कार्यकारी दण्डाधिकारी,
कुल्लू जिला कुल्लू (हि0 प्र0)।

ब अदालत श्री वेद प्रकाश शर्मा, तहसीलदार एवं कार्यकारी दण्डाधिकारी, कुल्लू, जिला कुल्लू, हि0 प्र0

केस नम्बर : 69/B.E./T/2016

तारीख पेशी : 22-12-2016

बनाम

सर्वसाधारण एवं आम जनता

विषय.—प्रार्थना-पत्र अधिनियम धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री लेस राम पुत्र श्री नरपत, निवासी माहिश, डा0 वारी, तहसील व जिला कुल्लू, हि0 प्र0 ने इस कार्यालय में प्रार्थना-पत्र दिया है कि उसकी लड़की सानिया का जन्म दिनांक 2-6-2010 को हुआ है परन्तु उसकी जन्म तिथि का इन्द्राज किसी कारणवश ग्राम पंचायत चनसारी के अभिलेख में दर्ज न हुआ है।

अतः इस इशतहार हजा द्वारा सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को सानिया की जन्म तिथि दर्ज करवाने बारे कोई आपत्ति हो तो वह दिनांक 22-12-2016 को सुबह 10.00 बजे या इससे पूर्व असालतन व वकालतन हाजिर अदालत आकर अपना उजर व एतराज दर्ज करवा सकता है इसके उपरान्त कोई भी उजर/एतराज समायत न होगा तथा नियमानुसार जन्म तिथि दर्ज करवाने के आदेश सम्बन्धित पंचायत को पारित कर दिए जाएंगे।

आज दिनांक 21-11-2016 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

वेद प्रकाश शर्मा,
तहसीलदार एवं कार्यकारी दण्डाधिकारी,
कुल्लू जिला कुल्लू (हि० प्र०)।

ब अदालत श्री वेद प्रकाश शर्मा, तहसीलदार एवं कार्यकारी दण्डाधिकारी, कुल्लू जिला कुल्लू हि० प्र०

केस नम्बर : 70/B.E./T/2016

तारीख पेशी : 22-12-2016

बनाम

सर्वसाधारण एवं आम जनता

विषय.—प्रार्थना-पत्र अधिनियम धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री राज कुमार पुत्र श्री कृष्ण बहादुर, निवासी चलैली, डा० चोलथरा, तहसील सरकाघाट, जिला मण्डी, हि० प्र० हाल निवासी वार्ड नं० 10, डा० ढालपुर, तहसील व जिला कुल्लू हि० प्र० ने इस कार्यालय में प्रार्थना-पत्र दिया है कि उसका जन्म दिनांक 20-06-1987 को कुल्लू में हुआ है परन्तु उसकी जन्म तिथि का इन्द्राज किसी कारणवश नगर परिषद् कुल्लू के अभिलेख में दर्ज न हुआ है।

अतः इस इशतहार हजा द्वारा सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को राज कुमार की जन्म तिथि दर्ज करवाने बारे कोई आपत्ति हो तो वह दिनांक 22-12-2016 को सुबह 10.00 बजे या इससे पूर्व असालतन व वकालतन हाजिर अदालत आकर अपना उजर व एतराज दर्ज करवा सकता है इसके उपरान्त कोई भी उजर/एतराज समायत न होगा तथा नियमानुसार जन्म तिथि दर्ज करवाने के आदेश सम्बन्धित पंचायत को पारित कर दिए जाएंगे।

आज दिनांक 21-11-2016 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

वेद प्रकाश शर्मा,
तहसीलदार एवं कार्यकारी दण्डाधिकारी,
कुल्लू जिला कुल्लू (हि० प्र०)।

ब अदालत श्री वेद प्रकाश शर्मा, तहसीलदार एवं कार्यकारी दण्डाधिकारी, कुल्लू जिला कुल्लू हि० प्र०

केस नम्बर : 71/B.E./T/2016

तारीख पेशी : 22-12-2016

बनाम

सर्वसाधारण एवं आम जनता

विषय.—प्रार्थना-पत्र अधिनियम धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री सुदन सिंह सपुत्र श्री तारा चन्द, निवासी वन्दल, डा० पूईद, तहसील व जिला कुल्लू हि० प्र० ने इस कार्यालय में प्रार्थना-पत्र दिया है कि उसकी माता जवना देवी की मृत्यु दिनांक 25-04-2011 को हुई है परन्तु उसकी मृत्यु तिथि का इन्द्राज किसी कारणवश ग्राम पंचायत पूईद के अभिलेख में दर्ज न हुआ है।

अतः इस इशतहार हजा द्वारा सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को जवना देवी की मृत्यु तिथि दर्ज करवाने बारे कोई आपत्ति हो तो वह दिनांक 22-12-2016 को सुबह 10.00 बजे या इससे पूर्व असालतन व वकालतन हाजिर अदालत आकर अपना उजर व एतराज दर्ज करवा सकता है इसके उपरान्त कोई भी उजर/एतराज समायत न होगा तथा नियमानुसार मृत्यु तिथि दर्ज करवाने के आदेश सम्बन्धित पंचायत को पारित कर दिए जाएंगे।

आज दिनांक 22-11-2016 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।
मोहर।

वेद प्रकाश शर्मा,
तहसीलदार एवं कार्यकारी दण्डाधिकारी,
कुल्लू जिला कुल्लू (हि० प्र०)।

**In the Court of H. R. Bairwa (IAS), Special Marriage Officer-cum-Sub Divisional Magistrate,
Manali, District Kullu, H.P.**

In the matter of :

Nawang Tenzin aged 26 years son of Shri Thakar Lal, r/o Lessani Padder, P.O. Atholi, Tehsil Machale, District Kishtwar, J & K at present residing at VPO Bahang, Tehsil Manali, District Kullu, H.P.

Smt. Geeta Devi aged 26 years d/o Shri Thakar Lal, r/o Village and P.O. Bahang, Tehsil Manali, District Kullu, H.P.

Versus

General Public

An application for registration of marriage under Special Marriage Act, 1954.

Whereas Nawang Tenzin aged 26 years son of Shri Thakar Lal, r/o Lessani Padder, P.O. Atholi, Tehsil Machale, District Kishtwar, J & K at present residing at VPO Bahang, Tehsil Manali, District Kullu, H.P. and Smt. Geeta Devi aged 26 years d/o Shri Thakar Lal, r/o Village and P.O. Bahang, Tehsil Manali, District Kullu, H.P. has presented an application on 2-9-2016 in this court for the registration of marriage under Special Marriage Act, 1954. Hence this proclamation is hereby issued for the information of general public that if any persons have any objection for the registration of the above marriage can appear in this court on 19-12-2016 at 2.00 P.M. to object registration of above marriage personally or through an authorized agent failing which this marriage will be registered under this Act, 1954 accordingly.

Given under my hand and seal of the court 19th day of November, 2016.

Seal.

Sd/-
*Special Marriage Officer-cum-Sub-Divisional Magistrate,
Manali, District Kullu, H.P.*

**In the Court of Shri Hemis Negi, H.A.S., Sub Divisional Magistrate Shimla (Urban),
District Shimla, Himachal Pradesh**

Miss Tenzin Dolma d/o Shri Dorjee Kalsang, r/o House No. 25, Tibetan Nursery Day School,
IGMC Boys Hostel Road Sanjauli, Tehsil and District Shimla, H.P. . . Applicant.

Versus

General Public

.. Respondent.

Application under section 13(3) of Birth and Death Registration Act, 1969.

Whereas Miss Tenzin Dolma d/o Shri Dorjee Kalsang, r/o House No. 25, Tibetan Nursery Day School, IGMC Boys Hostel Road Sanjauli, Tehsil and District Shimla, H.P. has preferred an application to the undersigned for registration the name and date of birth of her (DOB 27-5-1986) in the record of Municipal Corporation Shimla, District Shimla, H.P.

Therefore, this proclamation, the General Public is hereby informed that any person having and objection for entry as to date of birth mentioned above, may submit his objection in writing in this court on or before 22-12-2016 failing which no objection will be entertained after expiry of date and will be decided accordingly.

Given under my hand and seal of the Court on this 21st day of November, 2016.

Seal.

HEMIS NEGI,
Sub-Divisional Magistrate,
Shimla (Urban).

**In the Court of Shri Hemis Negi, H.A.S., Sub Divisional Magistrate Shimla (Urban),
District Shimla, Himachal Pradesh**

Shri Dorjee Damdul s/o Late Shri Tashi, r/o House No. 27, New Building, Tibetan Colony,
Shimla, Panthaghati, Tehsil and District Shimla, H.P. . . Applicant.

Versus

General Public

.. Respondent.

Application under section 13(3) of Birth and Death Registration Act, 1969.

Whereas Shri Dorjee Damdul s/o Late Shri Tashi, r/o House No. 27, New Building, Tibetan Colony, Shimla, Panthaghati, Tehsil and District Shimla, H.P. has preferred an application to the undersigned for registration the name and date of birth of his son namely Tenzin Tsering (DOB 15-8-2006) in the record of Municipal Corporation Shimla, District Shimla, H.P.

Therefore, this proclamation, the General Public is hereby informed that any person having and objection for entry as to date of birth mentioned above, may submit his objection in writing in

this court on or before 22-12-2016 failing which no objection will be entertained after expiry of date and will be decided accordingly.

Given under my hand and seal of the Court on this 21st day of November, 2016.

Seal.

HEMIS NEGI,
*Sub-Divisional Magistrate,
Shimla (Urban).*

**In the Court of Shri Hemis Negi, H.A.S., Sub Divisional Magistrate Shimla (Urban),
District Shimla, Himachal Pradesh**

Shri Tsewang Tenzin s/o Shri Dorjee Damdul, r/o House No. 27, New Building, Tibetan Colony, Shimla, Panthaghati, Tehsil and District Shimla, H.P. . . *Applicant.*

Versus

General Public

.. *Respondent.*

Application under section 13(3) of Birth and Death Registration Act, 1969.

Whereas Shri Tsewang Tenzin s/o Late Shri Dorjee Damdul, r/o House No. 27, New Building, Tibetan Colony, Shimla, Panthaghati, Tehsil and District Shimla, H.P. has preferred an application to the undersigned for registration the name and date of birth of his (DOB 30-1-1993) in the record of Municipal Corporation Shimla, District Shimla, H.P.

Therefore, this proclamation, the General Public is hereby informed that any person having and objection for entry as to date of birth mentioned above, may submit his objection in writing in this court on or before 22-12-2016 failing which no objection will be entertained after expiry of date and will be decided accordingly.

Given under my hand and seal of the Court on this 21st day of November, 2016.

Seal.

HEMIS NEGI,
*Sub-Divisional Magistrate,
Shimla (Urban).*

**In the Court of Shri Hemis Negi, H.A.S., Sub Divisional Magistrate Shimla (Urban),
District Shimla, Himachal Pradesh**

Shri Sonam Tsering s/o Shri Lobsang Dega, r/o House No. C-34, New Building, Tibetan Colony, Shimla, Panthaghati, Tehsil and District Shimla, H.P. . . *Applicant.*

Versus

General Public

.. Respondent.

Application under section 13(3) of Birth and Death Registration Act, 1969.

Whereas Shri Sonam Tsering s/o Shri Lobsang Dega, r/o House No. C-34, New Building, Tibetan Colony, Shimla, Panthaghati, Tehsil and District Shimla, H.P. has preferred an application to the undersigned for registration the name and date of birth of his (DOB 3-3-1975) in the record of Municipal Corporation Shimla, District Shimla, H.P.

Therefore, this proclamation, the General Public is hereby informed that any person having and objection for entry as to date of birth mentioned above, may submit his objection in writing in this court on or before 22-12-2016 failing which no objection will be entertained after expiry of date and will be decided accordingly.

Given under my hand and seal of the Court on this 21st day of November, 2016.

Seal.

HEMIS NEGI,
Sub-Divisional Magistrate,
Shimla (Urban).

**In the Court of Shri Hemis Negi, H.A.S., Sub Divisional Magistrate Shimla (Urban),
District Shimla, Himachal Pradesh**

Shri Thinley Wangchuk s/o Shri Rich Tsering, r/o Nabha House, Tibetan Colony, Shimla, Tehsil and District Shimla, H.P. . . Applicant.

Versus

General Public

.. Respondent.

Application under section 13(3) of Birth and Death Registration Act, 1969.

Whereas Shri Thinley Wangchuk s/o Shri Rich Tsering, r/o Nabha House, Tibetan Colony, Shimla, Tehsil and District Shimla, H.P. has preferred an application to the undersigned for registration the name and date of birth of his (DOB 23-3-1972) in the record of Municipal Corporation Shimla, District Shimla, H.P.

Therefore, this proclamation, the General Public is hereby informed that any person having and objection for entry as to date of birth mentioned above, may submit his objection in writing in this court on or before 22-12-2016 failing which no objection will be entertained after expiry of date and will be decided accordingly.

Given under my hand and seal of the Court on this 21st day of November, 2016.

Seal.

HEMIS NEGI,
Sub-Divisional Magistrate,
Shimla (Urban).

**In the Court of Shri Gian Sagar Negi, Sub-Divisional Magistrate, Shimla (R),
District Shimla (H. P.)**

Smt. Pema Dolma w/o Shri Comphel, r/o MD-22, Tibetan Handicraft Society, Sarswati Garden Estate, P.O. Kasumpti, Panthaghati, Tehsil & District Shimla, Himachal Pradesh.

Versus

General Public

. . Respondent.

Whereas Smt. Pema Dolma w/o Shri Comphel, r/o MD-22, Tibetan Handicraft Society, Sarswati Garden Estate, P.O. Kasumpti, Panthaghati, Tehsil & District Shimla, Himachal Pradesh has filed an application along with affidavit in the court of undersigned under section 13(3) of the Births & Deaths Registration Act, 1969 to enter date of birth of her Niece named—Ms. Tenzin Wangmo d/o Shri Tsering Dhundup, r/o Tibetan Handicraft Society, Sarswati Garden Estate, P.O. Kasumpti, Panthaghati, Tehsil & District Shimla, Himachal Pradesh in the record of Secy., Birth and Death, Municipal Corporation, Shimla.

Sl. No.	Name of the family member	Relation	Date of Birth
1.	Ms. Tenzin Wangmo	Niece	28-01-1995

Hence, this proclamation is issued to the general public if they have any objection/claim regarding entry of the name and date of birth of above named in the record of Municipal Corporation, Shimla may file their claims/objections on or before one month of publication of this notice in Govt. Gazette in this court, failing which necessary orders will be passed.

Issued today 02-12-2016 under my signature and seal of the court.

Seal.

GIAN SAGAR NEGI,
*Sub-Divisional Magistrate,
Shimla (R), District Shimla.*

CHANGE OF NAME

I, Sheetal Verma age 36 years, wife of Late Shri Devinder Nath, r/o Old Power House, Lakkar Bazar, Shimla, Tehsil and District Shimla, H.P. do hereby solemnly affirm and declare that after my marriage my name has been changed from Malti Devi to Sheetal Verma. My name be entered/changed in all records for all purposes as Sheetal Verma.

SHEETAL VERMA,
*wife of Late Shri Devinder Nath,
r/o Old Power House, Lakkar Bazar, Shimla,
Tehsil and District Shimla, H.P.*